

- **15 CSR 30-3.010:** provides that personal knowledge of a voter by two election judges, one from each major political party, suffices as identification, if the election judges complete an affidavit attesting to the voter's identity.
- **What the law requires:**
 - **Is ID required?**
 - **For registration:**
 - When registering in person, a copy of a birth certificate, a Native American tribal document, other proof of United States citizenship, a valid Missouri drivers license or other form of personal identification should be presented. A copy of valid photo identification should be submitted when registering by mail. Otherwise, the voter will be asked for a copy of a birth certificate, a Native American tribal document, other proof of United States citizenship, a valid Missouri drivers license, or other personal identification when voting for the first time.
 - **At polls:**
 - Before voting, voters must present identification issued by Missouri, an agency of the state, or a local election authority in the state; identification issued by the U.S. government or an agency; identification issued by an institute of higher education located in Missouri; a copy of a current utility bill, bank statement, government check, paycheck or other government document that contains the name and address of the voter; a driver's license or state identification card issued by another state; or other identification approved by the Secretary of State. Two election judges, one from each party, may also vouch for the identity of the voter if they personally know them.
- **First time voters or all?**
 - All
 - **When?**
 - A copy of valid photo ID may be submitted when registering by mail. When registering in person, ID must be presented. ID must also be presented at the polls.
 - **What types of ID?**
 - When registering by mail: a copy of valid photo identification
 - When registering in person: a copy of a birth certificate, a Native American tribal document, other proof of United States citizenship, a valid Missouri drivers license or other form of personal identification
 - At the polls: a voter must present identification issued by Missouri, an agency of the state, or a local election authority in the state; identification issued by the U.S. government or an agency; identification issued by an institute of higher education located in Missouri; a copy of a current utility bill, bank statement, government check, paycheck or other government document that contains the name and address of the voter; a driver's license or state identification card issued by another state; or other identification approved

by the Secretary of State (personal knowledge of the voter by two election judges may also suffice).

- **State or federal elections?**
 - Both
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - A voter with no identification at the polling place may not vote.
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - A voter with no identification at the polling place may not vote.
- **Challenge available at polls?**
 - No.

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MEMORANDUM

TO: Sara Sampson
FROM: Sarah Shive
DATE: August 21, 2005
RE: States for ID requirements chart: Montana

Montana

Summary:

Montana requires that before a voter may receive a ballot, they must present current photo identification showing their name, which may include a valid driver's license, a school photo identification card, or a tribal photo identification card. MCA §13-13-114(1)(a). If they do not provide current photo identification, they may provide instead a current utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that shows the elector's name and current address. *Id.* The identification need not perfectly match the information in the precinct register, as long as an election judge is able to the voter's identity and eligibility. MCA §13-13-114(1)(c). If the information provided is insufficient to verify the voter's identity and eligibility, or the voter's name does not appear in the precinct register, they may still vote provisionally. MCA §13-13-114(2). A voter who has voted provisionally may verify their eligibility to vote by providing a form of identification permitted by §13-13-114(1)(a) in person by 5 p.m. on the day after the election, by fax or email by 5 p.m. on the day after the election, or by mail postmarked either the day of the election or the day after the election. MCA §13-15-107.

When registering to vote by mail, a voter must enclose a copy of current and valid photo identification showing the individual's name, such as a valid driver's license, a school photo identification card, or a tribal photo identification card; or a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address. MCA §13-2-110(5)(b). When registering in person, a voter must present current and valid photo identification with the individual's name, such as valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification card; or a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address. MCA §13-2-110(5)(a).

- **Statutes:**

- **Passed:**

- §13-13-114 – 1979; 2003 changed the requirement that the voter state their name and address before signing the precinct register and voting to a requirement that the voter present identification of one of the types enumerated by the statute (photo identification, or a current utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that shows the voter's name and current address).
 - §13-15-107 – 2003
 - §13-2-110 – 2003

- **Session law/recent legislation passed:**

- None.

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- **Pending legislation:**
 - **2005 MT S.B. 234:** proposes that a voter whose name appears on the precinct register and is voting in person not be required to show identification, and that a voter whose name appears in the register as a provisionally registered voter receive a regular ballot if presenting either valid photo identification or a current utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that shows the elector's name and current address. (Mar. 1, 2005 – died in committee)
 - **2005 MT S.B. 367:** proposes to remove a driver's license from the enumerated list of acceptable forms of identification to present when registering to vote. Also proposes that if a voter's name does not appear in the precinct register, but the voter is in the correct precinct, or the voter's registration is outdated, that the voter must be permitted to register or to update their registration, and be provided with a regular ballot. (Feb. 4, 2005)
 - **2005 MT S.B. 302:** proposes to remove a driver's license from the enumerated list of acceptable forms of identification to present when registering to vote. (Apr. 18, 2005)
 - **2005 MT D. 375/2005 MT D. 458:** proposes that identification requirements may not be more stringent than those laid out in the Help America Vote Act of 2002. Also proposes to remove the identification requirements for registration in person, and to alter those required for registration by mail to require that a voter submit a copy of valid, current photo identification showing their name and current address, or if such identification does not exist, a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address. Also proposes to remove the identification requirements for voters voting in person, and to allow voters whose names appear in the precinct register as provisionally registered voters to vote by regular ballot if they present current photo identification showing their name and current address, or if the voter does not have such document, a current utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that shows the elector's name and current address. (Dec. 30, 2004/Jan. 10, 2005)
 - **2005 MT D. 1213:** proposes to provide for same-day registration to vote, and removes a driver's license from the enumerated list of acceptable forms of identification for a voter to present when registering to vote. (Jan. 31, 2005)
- **Case law (from annotations):**
 - None.
- **Administrative regulations:**
 - None.
- **What the law requires:**
 - **Is ID required?**
 - **For registration:**
 - By mail: A voter must enclose a copy of current and valid photo identification showing the individual's name, such as a valid driver's license, a school photo identification card, or a tribal photo identification card; or a current utility bill, bank statement,

paycheck, government check, or other government document that shows the individual's name and current address.

- In person: A voter must present current and valid photo identification with the individual's name, such as valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification card; or a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.
- **At polls:**
 - Montana requires that before a voter may receive a ballot, they must present current photo identification showing their name, which may include a valid driver's license, a school photo identification card, or a tribal photo identification card. If they do not provide current photo identification, they may provide instead a current utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that shows the elector's name and current address.
- **First time voters or all?**
 - All
 - **When?**
 - When registering to vote, and at the polls before voting.
 - **What types of ID?**
 - When registering by mail: A voter must include a copy of current and valid photo identification with the individual's name, such as valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification card; or a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.
 - When registering in person: A voter must present current and valid photo identification with the individual's name, such as valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification card; or a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.
 - At the polls: Before a voter may receive a ballot, they must present current photo identification showing their name, which may include a valid driver's license, a school photo identification card, or a tribal photo identification card. If they do not provide current photo identification, they may provide instead a current utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that shows the elector's name and current address.
 - **State or federal elections?**

- Both
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - A voter with no identification or insufficient identification at the polling place must vote provisionally.
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - A voter who has voted provisionally may verify their eligibility to vote by providing a form of identification permitted by §13-13-114(1)(a) in person by 5 p.m. on the day after the election, by fax or email by 5 p.m. on the day after the election, or by mail postmarked either the day of the election or the day after the election.
- **Challenge available at polls?**
 - A challenger may challenge a voter's eligibility to vote at any time by filling out an affidavit stating the grounds of the challenge and any evidence supporting it and submitting the affidavit to the election administrator or, on election day, an election judge. §13-13-301(1) as amended by 2005 Mt. ALS 286.

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: June 7, 2005
RE: 10 states for ID requirements chart: Nebraska

Nebraska

Summary:

Nebraska law requires that an applicant supply his/her name, address, phone number, date of birth, place of birth, and driver's license number or the last four digits of his/her social security number (if the applicant has either) in order to register to vote. Neb. Rev. Stat. § 32-312 (2004); 2005 Neb. Laws 566. Nebraska has also codified the HAVA identification requirements and applied them to State and Federal elections. Neb. Rev. Stat. § 32-319 (2004); Neb. Rev. Stat. § 32-914 (2004). Thus, new voters who registered by mail are required to present identification with their registration, prior to voting, or at the polls. *Id.* The forms of identification are the same forms acceptable under HAVA. *Id.* Without proper identification, these voters may vote a provisional ballot. Neb. Rev. Stat. § 32-915 (2004); 2005 Neb. Laws 566. At the polls, all other voters are only required to announce their name and address and sign their name in the record. Neb. Rev. Stat. § 32-913 (2004); Neb. Rev. Stat. § 32-914 (2004).

Nebraska recently passed two laws concerning elections. 2005 Neb. Laws 53; 2005 Neb. Laws 566. 2005 Neb. Laws 53 makes a change to the length of time felons are not permitted to vote. 2005 Neb. Laws 566 makes extensive changes to HAVA updates passed in 2003. It specifies what information is required on the registration form and that a registration may be rejected for failure to provide certain information. 2005 Neb. Laws 566. It also clarifies the identification requirements for new voters who registered by mail and includes a requirement that photo identification be valid and current and all other forms of identification be dated within the last sixty days. *Id.*

- **Statute:**

- Neb. Rev. Stat. § 32-312 (2004).
- Neb. Rev. Stat. § 32-319 (2004).
- Neb. Rev. Stat. § 32-914 (2004).
- Neb. Rev. Stat. § 32-915.02 (2004).
- **Passed:**
 - § 32-312 – 1994; 2003 driver's license or social security number added as a registration information requirement
 - § 32-319 – 2003
 - § 32-914 – 2003
 - § 32-915.02 – 2003

- **Session law:**

- 2005 Neb. Laws 53 (passed over governor's veto March 10, 2005): amending § 32-312 and lengthening time for felony disenfranchisement to two years after sentence is complete
- 2005 Neb. Laws 566 (signed into law May 31, 2005):
 - gives Secretary of State the power to promulgate rules and regulations

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- amending 32-319: rewords section regarding providing identification with registration
- amending 32-312: telephone number and place of birth no longer optional; adds a statement that an incomplete application may be rejected; adds a statement that failure to provide driver's license or social security number will not result in rejection; makes minor word & phrasing changes
- amending 32-318: new provision added mandating that the identification provided by mail in registrants must be dated within the last sixty days or, for photo identification, that it is current and valid; also adds that the identification may be shown at registration, after registration, or at the polls and by mail, fax, or in person
- amending 32-914: rewrote requirement on showing identification at polls
- repealing 32-915.02 but the relevant portion regarding provisional ballots for new voters who do not present identification was moved to § 32-915.
- **Pending legislation:** none
- **Case law (from annotations):** none
- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **For registration:**
 - State law requires that the applicant supply his/her name, address, driver's license number or the last four digits of his/her social security number (if the applicant has either), and date of birth in order to register. Neb. Rev. Stat. § 32-312 (2004).
 - Phone number & place of birth now no longer optional; incomplete application may be rejected (but not because driver's license or social security number omitted). 2005 Neb. Laws 566.
 - New registrants who register by mail are also instructed to provide a copy of a current photo identification, utility bill, bank statement, government check, paycheck, or other government document that is current and show the voter's name and address either at registration or at the polls. Neb. Rev. Stat. § 32-319 (2004).
 - **At polls:**
 - New mail in registrants – required to provide identification at the polls if they did not provide a copy with their registration. Neb. Rev. Stat. § 32-319 (2004); Neb. Rev. Stat. § 32-914 (2004).
 - All voters - Only required to announce their name and address and sign their name in record. Neb. Rev. Stat. § 32-913 (2004); Neb. Rev. Stat. § 32-914 (2004).
 - **First time voters or all?**
 - Identification requirements only for first time voters who register by mail – must provide identification either with their registration or at the polls. Neb. Rev. Stat. § 32-319 (2004); Neb. Rev. Stat. § 32-914 (2004).

- **When?**
 - Either at the polls or with registration. Neb. Rev. Stat. § 32-319 (2004); Neb. Rev. Stat. § 32-914 (2004).
- **What types of ID?**
 - Current photo identification OR
 - Utility bill, bank statement, government check, paycheck, or other government document that is current and shows the voter's name and address
 - Neb. Rev. Stat. § 32-319 (2004); Neb. Rev. Stat. § 32-914 (2004).
 - New provision added to § 32-318 by 2005 Neb. Laws 566 requiring photo identification be valid and current and all other forms of identification be dated within the last sixty days.
- **State or federal elections?**
 - All elections.
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot. Neb. Rev. Stat. § 32-915.02 (2004).
 - § 32-915.02 repealed by 2005 Neb. Laws 566 but the relevant language was added to § 32-915.
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - The voter must also fill out voter registration form and execute an affidavit that the voter is a registered voter. Neb. Rev. Stat. § 32-915.02 (2004).
 - § 32-915.02 repealed by 2005 Neb. Laws 566 but the relevant language was added to § 32-915.
- **Challenge available at polls?**
 - Yes, of any voter by an election judge, inspector, clerk, or registered voter. Neb. Rev. Stat. § 32-926 (2004).

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: June 21, 2005
RE: States for ID requirements chart: Nevada

Nevada

Summary:

Nevada requires first time voters who register by mail to present identification either at registration or at the polls (identification forms are the same as under HAVA). Nev. Rev. Stat. 293.2725 (2005). Without proper identification, the voter may execute an affidavit and vote a provisional ballot for federal candidates only. Nev. Rev. Stat. 293.2725 (2005).

All other voters are only required to state their name and sign the poll register, which is compared to their registration card or one of a variety of forms of alternative signature comparison documents. However, if the signatures do not match, the voter must produce additional identification with a signature and a picture (types are specified by law). Nev. Rev. Stat. 293.277 (2005).

Nevada has recently passed two bills which allow voters who vote provisionally to vote for federal offices as well as state and local offices. Several bills were introduced this session concerning voter identification and registration.

Interestingly, Nevada has implemented a statewide touch screen voting system with voter verifiable paper audit trail, which Nevada boasts was a complete success in 2004. Nevada Secretary of State Homepage, at <http://sos.state.nv.us/publications/hava.htm>.

- **Statutes:** Nev. Rev. Stat. 293.2725 (2005); Nev. Rev. Stat. 293.285 (2005); Nev. Rev. Stat. 293.277 (2005).
 - **Passed:**
 - 293.2725 – 2003
 - 293.285 – 1960
 - 293.277 – at least since 1991; possibly since 1960.
- **Session law/recent legislation passed:**
 - 2005 Nev. Stat. 500, sec. 9, 10, 293.3081, 293.3082: allowing voters who vote provisionally to vote for State and Federal issues and candidates
 - Bill: AB 500, 73rd Leg. Sess., Reg. Sess. (Nev. 2005) [approved by governor June 17, 2005]
 - 2005 Nev. Stat. 455, sec. 23, 24, 293.3081, 293.3082: allowing voters who vote provisionally to vote for State and Federal issues and candidates
 - Bill: AB 455, 73rd Leg. Sess., Reg. Sess. (Nev. 2005) [approved by governor June 13, 2005, effective October 1]
- **Pending legislation:**
 - AB 269, 73rd Leg. Sess., Reg. Sess. (Nev. 2005): Require all voters to present either a current and valid photo identification or a copy of a current utility bill, bank statement, paycheck or document issued by a governmental entity prior to voting; changes 293.277 to require signature verification, identification document,

and name in election register in order for a voter to be permitted to vote. [3/21/05 - Introduced; 4/16/05 - No further action allowed]

- SB 478, 73rd Leg. Sess., Reg. Sess. (Nev. 2005): Substitutes “current utility bill, bank statement, paycheck, or document issued by a governmental entity, including, without limitation, a check, which indicates the name and address of the person” for “sufficient proof of residence and identity” in 293.2725 (HAVA compliant statute); limits alternative signature verification document (when voter registration card unavailable) to only a valid photo identification card in 293.277. [3/29/05 – introduced; 4/27/05 no further action allowed]
- AB 499, 73rd Leg. Sess., Reg. Sess. (Nev. 2005): adds school identification card to list of alternative signature verification documents; allows a voter to show identification instead of signature comparison to prove identity in 293.277 [3/28/05 introduced; 5/23/05 passed out of committee; 6/3/05 referred to another committee; 6/6/05 passed out of committee]
- SB 386, 73rd Leg. Sess., Reg. Sess. (Nev. 2005): allowing appointed poll challengers; modernizing the election code to accommodate modern methods of voting and running polls and registration; removing references to punch ballots [conference committee 6/3/05]
- **Case law (from annotations):** none
- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **HAVA:** First time voters who registered by mail must have identification (either with registration or at polls). Nev. Rev. Stat. 293.2725 (2005).
 - Alternative: Provide social security number or state identification number on registration form, and voter’s name and date of birth match with an existing state record. Nev. Rev. Stat. 293.2725 (2)(b) (2005).
 - **All other voters:** At polls, all voters must state their names and then sign in register. Their signatures are compared to either voter registration cards or a variety of identification documents with a signature. Nev. Rev. Stat. 293.277 (1) (2005); Nev. Rev. Stat. 293.285 (1) (2005).
 - If signatures do not match, the voter must produce additional identification: voter registration card, driver’s license, state identification card, military identification card, or any other form of identification issued by a government agency with signature and picture. Nev. Rev. Stat. 293.277 (2005).
 - **First time voters or all?**
 - First time voters only for the identification requirement. Nev. Rev. Stat. 293.2725 (2005).
 - Signature verification applies to all voters. Nev. Rev. Stat. 293.277 (2005).
 - **When?**
 - HAVA requirement: Either at registration or at polls. Nev. Rev. Stat. 293.2725 (2)(a) (2005).

- **What types of ID?**
 - HAVA requirement: Photo identification, utility bill, bank statement, paycheck, or government issued document (must contain name and address). Nev. Rev. Stat. 293.2725 (1)(a) (2005).
- **State or federal elections?**
 - Both. Except that without identification, a first time voter who registered by mail is only allowed to vote provisionally for federal candidates, not state or local candidates. Nev. Rev. Stat. 293.3082 (2005).
 - RECENT CHANGE: 2005 Nev. Stat. 500, sec. 9, 10, 293.3081, 293.3082 & 2005 Nev. Stat. 455, sec. 23, 24, 293.3081, 293.3082: voters voting provisionally may vote for state and federal candidates and issues.
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot. Nev. Rev. Stat. 293.3081 (2005).
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Affidavit & can vote provisionally. Nev. Rev. Stat. 293.3082 (2005).
- **Challenge available at polls?**
 - Yes, by any registered voter. Nev. Rev. Stat. 293.303 (2005).
- **Miscellaneous:**
 - Uses touch screen voting with voter verifiable paper audit trail
 - Has vote by mail for precincts with less than 200 registered voters. Nev. Rev. Stat. 293.343 (2005).
 - Allows early voting. Nev. Rev. Stat. 293.356 (2005).

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MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: June 22, 2005
RE: States for ID requirements chart: New Hampshire

New Hampshire

Summary:

New Hampshire, like a few other states with election day registration, was exempted from the NVRA and from the provisional balloting requirement of HAVA. New Hampshire Secretary of State, 2005 State Plan Draft, 16 (2005), <http://www.sos.nh.gov/HAVA/State%20Plan%202005-06-02.pdf>. Consequently, New Hampshire requires in person registration for all voters who do not qualify for an absentee ballot. *Id.* This can be done either prior to the election or on election day, but it must be done in person. *Id.* Registration requires proof of citizenship, proof of age, and proof of domicile. N.H. Rev. Stat. Ann. § 654:12 (2005). Proof of age requires documentation proving the requirement, but citizenship and domicile may be proven through affidavit (but executing the affidavit requires proof of identity).

The identification requirements of HAVA are not really much of an issue in New Hampshire, as only absentee voters are permitted to register by mail.

At the polls, voters are only required to announce their name prior to receiving a ballot, but in order to register on election day they must prove citizenship, domicile, and age. N.H. Rev. Stat. Ann. § 659:13 (2005); N.H. Rev. Stat. Ann. § 654:12 (2005). An election day registrant is not permitted to register and consequently vote without proof of citizenship, age, and domicile (no provisional balloting). New Hampshire Secretary of State, 2005 State Plan Draft, 14 (2005), <http://www.sos.nh.gov/HAVA/State%20Plan%202005-06-02.pdf>.

There are several bills pending concerning election day registration, photo identification at the polls, and identification at registration. All remain in committee currently.

- **Statutes:** N.H. Rev. Stat. Ann. § 654:12 (2005); N.H. Rev. Stat. Ann. § 659:13 (2005)
 - **Passed:**
 - § 654:12 – 1979
 - § 659:13 – 1979
- **Session law/recent legislation passed:** none
- **Pending legislation:**
 - HB 639, 159th Sess. (N.H. 2005): eliminating election day registration and enacting provisions of NVRA [1/26/05 introduced; 3/23/05 retained in committee]
 - HB 501, 159th Sess. (N.H. 2005) & HB 345, 159th Sess. (N.H. 2005): AT POLLS - requiring photo identification for all voters; AT REGISTRATION - changing forms of identification for proof of domicile to: NH state identification card, NH driver's license, NH vehicle registration, passport, military identification, or other photo identification; AT REGISTRATION - adds proof of identity to

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- requirements – by photo identification only [Both bills - 1/26/05 introduced; 3/16/05 retained in committee]
- HB 347, 159th Sess. (N.H. 2005): requiring proof of citizenship of all voters at the polls - birth certificate, passport, naturalization papers, citizenship affidavit, or any other reasonable documentation which indicates the applicant is a citizen. [1/26/05 introduced; 3/16/05 retained in committee]
 - HB 345, 159th Sess. (N.H. 2005): requiring photo identification of all voters prior to voting (photo driver's license, passport, military identification, or other government issued photo identification). [1/26/05 introduced; 3/16/05 retained in committee]
 - SB 26, 159th Sess. (N.H. 2005): requiring photo identification prior to voting. [1/5/05 introduced; 4/7/05 recommitted to committee]
 - **Case law (from annotations):** none
 - **Administrative regulations:** none
 - **What the law requires:**
 - **Is ID required?**
 - **For registration/all voters:** Requires in person registration with city clerk or the Supervisors of the Checklist. Registration can occur on election day. Also requires proof of citizenship, age, and domicile (also proof of identity required if any of those three are to be proven by affidavit). N.H. Rev. Stat. Ann. § 654:12 (2005).
 - Proof of citizenship: birth certificate, passport, naturalization papers, notarized citizenship affidavit, or any other document indicating the voter is a U.S. citizen
 - Proof of age: any reasonable document indicating the applicant is eighteen years old or older
 - Proof of domicile: any reasonable document indicating the applicant has a domicile and intends to maintain a domicile there or a notarized domicile affidavit
 - Documents acceptable for domicile proof: NH driver's license, NH vehicle registration, or photo identification issued by US government
 - Proof of identity (needed to execute affidavit to prove citizenship or domicile): driver's license issued by any state, passport, or government issued photo identification
 - **At polls/all registered voters:** Announce name only. N.H. Rev. Stat. Ann. § 659:13 (2005).
 - **HAVA:** voters are only permitted to register by mail in New Hampshire if they qualify for an absentee ballot, but that procedure complies with HAVA and requires identification. New Hampshire Secretary of State, 2005 State Plan Draft, 16 (2005), <http://www.sos.nh.gov/HAVA/State%20Plan%202005-06-02.pdf>.
 - **First time voters registering by mail or all?**
 - Requirements apply to all voters; obviously the registration requirements apply only to new voters. N.H. Rev. Stat. Ann. § 654:12 (2005); N.H. Rev. Stat. Ann. § 659:13 (2005).

- **When?**
 - At registration. N.H. Rev. Stat. Ann. § 654:12 (2005).
- **What types of ID?**
 - Proof of citizenship: birth certificate, passport, naturalization papers, notarized citizenship affidavit, or any other document indicating the voter is a U.S. citizen
 - Proof of age: any reasonable document indicating the applicant is 18 years old or older
 - Proof of domicile: any reasonable document indicating the applicant has a domicile and intends to maintain a domicile there or a notarized domicile affidavit
 - Documents acceptable for domicile proof: NH driver's license, NH vehicle registration, or photo identification issued by US government
 - Proof of identity (needed to execute affidavit to prove citizenship or domicile): driver's license issued by any state, passport, or government issued photo identification
 - N.H. Rev. Stat. Ann. § 654:12 (2005).
- **State or federal elections?**
 - All elections.
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Cannot vote/not registered – no provisional voting system. New Hampshire is exempt from provisional voting requirement of HAVA because it has election day registration. Voter must prove citizenship, age and domicile prior to registration and voting (but that can be done by affidavit). New Hampshire Secretary of State, 2005 State Plan Draft, 14 (2005), <http://www.sos.nh.gov/HAVA/State%20Plan%202005-06-02.pdf>.
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - See above.
- **Challenge available at polls?**
 - Yes, any voter may challenge. N.H. Rev. Stat. Ann. § 659:27 (2005).
- **Miscellaneous:**
 - Has election day registration with same identification requirements as regular registration. Requires in person registration. N.H. Rev. Stat. Ann. § 654:7-a, 7b (2005).

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MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: June 22, 2005
RE: States for ID requirements chart: New Jersey

New Jersey

Summary:

New Jersey does not require any identification beyond HAVA for new registrants registering by mail; instead, New Jersey merely applies HAVA's requirements to all elections. N.J. Stat. Ann. § 19:15-17 (2005); N.J. Stat. Ann. § 19:31-5 (2005); N.J. Stat. Ann. § 19:31-6.4 (2005). The acceptable forms of identification are the same as under HAVA. *Id.* The applicant may present the identification either at the polls or with his/her registration. *Id.* Without identification, a new voter may vote a provisional ballot, but the vote will not be counted if the voter does not produce identification to election officials within two days of the election. N.J. Stat. Ann. § 19:53C-3 (2005).

At the polls, there is no identification requirement for all voters, but signature comparison is done. N.J. Stat. Ann. § 19:15-17 (2005); N.J. Stat. Ann. § 19:31-21 (2005).

There are several voter identification-related bills pending in the legislature. A couple of these bills have passed one chamber and are awaiting a vote in the other. Two of these proposals would require identification at the polls. SB 2462, 211th Assem., 2nd Ann. Sess. (N.J. 2005).

- **Statutes:** N.J. Stat. Ann. § 19:15-17 (2005); N.J. Stat. Ann. § 19:31-5 (2005); N.J. Stat. Ann. § 19:31-6.4 (2005).
 - **Passed:**
 1. § 19:15-17 – 2004
 2. § 19:31-5 – 2004
 3. § 19:31-6.4 – 2004
- **Session law/recent legislation passed:** none
- **Pending legislation:**
 - SB 2462, 211th Assem., 2nd Ann. Sess. (N.J. 2005): requires personal identification to vote (identification types not specified) [5/5/05 introduced, referred to committee]
 - A 3404: issue electronic voter ID cards to voters which must be brought to polls [10/18/04 introduced, referred to committee]
 - AB 42, 211th Assem., 2nd Ann. Sess. (N.J. 2005): Permits voter registration up to twenty-one days before election; permits use of provisional ballot as voter registration; modifies information available on voter registration list [3/7/05 introduced; 6/20/05 passed Assembly; 6/20/05 second reading in Senate]
 4. Companion Bill – SB 2387, 211th Assem., 2nd Ann. Sess. (N.J. 2005): Permits voter registration up to 21 days before election; permits use of provisional ballot as voter registration; modifies information available on voter registration list [3/14/05 introduced; 6/20/05 amended on floor]
 - AB 39, 211th Assem., 2nd Ann. Sess. (N.J. 2005): increasing criminal penalties [3/7/05 introduced; 6/20/05 passed Assembly; 6/20/05 second reading in Senate]

5. Companion Bill – SB 2393, 211th Assem., 2nd Ann. Sess. (N.J. 2005): increasing criminal penalties [3/14/05 introduced; 6/20/05 substituted by AB 39]
- AB 38, 211th Assem., 2nd Ann. Sess. (N.J. 2005): adds political party affiliation to registration form [3/7/05 introduced; 6/20/05 passed Assembly; 6/20/05 second reading in Senate]
 6. Companion Bill – SB 2394, 211th Assem., 2nd Ann. Sess. (N.J. 2005): adds political party affiliation to registration form [3/14/05 introduced; 6/9/05 second reading in Senate]
- AB 2413, 211th Assem., 1st Ann. Sess. (N.J. 2005): implements portions of HAVA [2/24/05 introduced, referred to committee]
- AB 1612, 211th Assem., 1st Ann. Sess. (N.J. 2005): Permits person registering to vote to declare political affiliation on voter registration form [1/13/04 introduced, referred to committee]
- **Case law (from annotations):** none
- **Administrative regulations:** none as such, but there could be informal ones not on Attorney General's website (Chief Election Official).
- **What the law requires:**
 - **Is ID required?**
 7. **For registration:**
 - The voter must provide identification with his registration, his social security number or his driver's license number on his registration form or else the voter will be required to show identification at the polls prior to voting. N.J. Stat. Ann. § 19:15-17 (2005); N.J. Stat. Ann. § 19:31-5 (2005); N.J. Stat. Ann. § 19:31-6.4 (2005).
 8. **At polls:**
 - Signature comparison only. N.J. Stat. Ann. § 19:15-17 (2005); N.J. Stat. Ann. § 19:31-21 (2005).
 - **First time voters or all?**
 9. First time voters who register by mail. N.J. Stat. Ann. § 19:15-17 (2005); N.J. Stat. Ann. § 19:31-5 (2005); N.J. Stat. Ann. § 19:31-6.4 (2005).
 - **When?**
 10. Either at registration or at the polls. (HAVA). N.J. Stat. Ann. § 19:15-17 (2005); N.J. Stat. Ann. § 19:31-5 (2005); N.J. Stat. Ann. § 19:31-6.4 (2005).
 - **What types of ID?**
 11. (1) A current and valid photo identification card.
 12. (2) A current utility bill, bank statement, government check, or paycheck.
 13. (3) Any other government document that shows the voter's name and current address.
 14. (4) Other documents deemed acceptable by the Attorney General.
 15. N.J. Stat. Ann. § 19:15-17 (2005); N.J. Stat. Ann. § 19:31-5 (2005); N.J. Stat. Ann. § 19:31-6.4 (2005).
 - **State or federal elections?**
 16. Both. N.J. Stat. Ann. § 19:31-6.4 (2005).

- **Consequences of having no ID (provisional ballot v. regular ballot?)**
17. Provisional ballot. N.J. Stat. Ann. § 19:15-17 (2005).
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
18. Voter has two days after election to produce identification or else vote does not count. N.J. Stat. Ann. § 19:53C-3 (2005).
- **Challenge available at polls?**
19. Yes, candidates, the election board, and political parties may appoint poll challengers who can challenge voters at the polls. N.J. Stat. Ann. § 19:15-18 (2005).

MEMORANDUM

TO: Sara Sampson
FROM: Sarah Shive
DATE: August 21, 2005
RE: States for ID requirements chart: New Mexico

New Mexico

Summary:

New Mexico requires that when registering for the first time in New Mexico via mail, a voter must either submit a copy of current, valid photo identification, or a utility bill, bank statement, government check, paycheck, student identification card or other government document (including tribal identification) that shows the name and address of the applicant. N.M. Stat. Ann. §1-4-5.1(I)(4)(a). If the voter does not submit identification when registering, they will be required to present it when voting in person or absentee. N.M. Stat. Ann. §1-4-5.1(I)(4)(b).

At the polls, a voter must present identification, which may include current, valid photo identification, or a utility bill, bank statement, government check, paycheck, student identification card or other government document (including tribal identification) that shows the name and address of the applicant. N.M. Stat. Ann. §1-12-7.1(D). Alternatively, the voter may supply a verbal or written statement by the voter of the voter's name, year of birth and unique identifier, with no need to include their middle initial or suffix. N.M. Stat. Ann. §1-1-5.4(B). If a voter cannot provide such identification, they must vote provisionally, and provide the required voter identification to the county clerk's office before the county canvass begins, or to the precinct board before the polls close, for their vote to be counted. N.M. Stat. Ann. §1-12-7.1(D). If lines to vote exceed 45 minutes, however, any physical identification requirements not required by federal law may be suspended, and a voter may simply state their name, year of birth, and unique identifier. N.M. Stat. Ann. §1-12-10.2. If a voter cannot state their name, year of birth, and unique identifier, however, physical identification is still required, and it may also be required at the request of two or more precinct board members of different parties. *Id.*

- **Statutes:**
 - **Passed:**
 - §1-1-5.4 – 2005
 - §1-4-5.1 – 1978; 2005
 - §1-12-7.1 – 1953; 2005
 - §1-12-10.2 – 2005
- **Session law/recent legislation passed:**
 - None.
- **Pending legislation:**
 - **2005 NM H.B. 18:** proposes that all voters registering by mail must submit the required identification when voting in person or absentee. Also specifically enumerates tribal identification as an acceptable form of identification. (Jan. 19, 2005)

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- **2005 NM S.B. 680:** proposes that a voter identification card or tribal identification be added as acceptable identification for submission when registering to vote by mail. (Mar. 2, 2005)
- **Case law (from annotations):**
 - None.
- **Administrative regulations:**
 - None.
- **What the law requires:**
 - **Is ID required?**
 - **For registration:**
 - By mail: When registering for the first time in New Mexico via mail, a voter must submit either a copy of current, valid photo identification, or a utility bill, bank statement, government check, paycheck, student identification card or other government document (including tribal identification) that shows the name and address of the applicant. If the voter does not submit such identification, they will be required to provide identification at the polls.
 - At polls: A voter must present identification, which may include current, valid photo identification, or a utility bill, bank statement, government check, paycheck, student identification card or other government document (including tribal identification) that shows the name and address of the applicant. Alternatively, the voter may state their name, year of birth and unique identifier, with no need to include their middle initial or suffix.
 - **First time voters or all?**
 - All
 - **When?**
 - When registering to vote by mail, and at the polls before voting.
 - **What types of ID?**
 - When registering by mail: A voter must submit a copy of current, valid photo identification, or a utility bill, bank statement, government check, paycheck, student identification card or other government document (including tribal identification) that shows the name and address of the applicant.
 - At the polls: Before a voter may receive a ballot, they must present current photo identification showing their name, which may include a valid driver's license, a school photo identification card, or a tribal photo identification card. If they do not provide current photo identification, they may provide instead a current utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that shows the elector's name and current address.
 - **State or federal elections?**
 - Both

- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - A voter with no identification or insufficient identification at the polling place must vote provisionally.
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - If a voter cannot provide identification, they must vote provisionally, and provide the required voter identification to the county clerk's office before the county canvass begins, or to the precinct board before the polls close, for their vote to be counted.
- **Challenge available at polls?**

Yes, under N.M. Stat. Ann. § 3-8-43.

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: June 23, 2005
RE: States for ID requirements chart: New York

New York

Summary:

New York does not require any identification beyond the HAVA requirements. N.Y. Elec. Law § 8-303 (2005). A new voter must either include his driver's license or social security number on his registration or provide identification at the polls or with his registration. *Id.* The types of identification permitted are the same as permitted under HAVA. *Id.* This requirement applies to state and federal elections. *Id.* Without identification, a first time voter who registered by mail may sign an affidavit and vote an affidavit ballot. *Id.* At the polls, all other voters must merely announce their name and address and sign the poll record. N.Y. Elec. Law § 8-302 (2005); N.Y. Elec. Law § 8-304 (2005).

Recently, a law was passed providing for the creation of a statewide voter registration list. 2005 N.Y. Laws Ch. 24. In addition, two relevant bills are pending. One provides that an affidavit ballot is also a valid application to register to vote. S. 2029, 228th Ann. Legis. Sess. (N.Y. 2005). The other implements HAVA identification provisions and other HAVA requirements. A. 121, 228th Ann. Legis. Sess. (N.Y. 2005).

- **Statutes:** N.Y. Elec. Law § 8-303 (2005).
 - **Passed:**
 - § 8-303 – 2004 [expires & is repealed July 1, 2005]
- **Session law/recent legislation passed:**
 - 2005 N.Y. Laws Ch. 24, sec. 1,2: creates a statewide voter registration list
 - Bills enacted: S. 3604, 228th Ann. Legis. Sess. (N.Y. 2005) (enacted) & A. 6733, 228th Ann. Legis. Sess. (N.Y. 2005) (enacted)
 - Passed May 3, 2005
- **Pending legislation:**
 - S. 2029, 228th Ann. Legis. Sess. (N.Y. 2005): Provides that an affidavit ballot submitted on election day at a polling place shall also constitute an application to register to vote. [2/8/05 introduced, referred to committee]
 - A. 121, 228th Ann. Legis. Sess. (N.Y. 2005): adds a new section implementing HAVA identification provisions; defines (broadly) the forms of identification which satisfy HAVA; adds identification requirement to registration form; implements statewide registration list; provides that an affidavit ballot is an application to register to vote; sets up system for affidavit ballot voters to ascertain if their ballot was counted [1/6/05 introduced; 1/25/05 passed Assembly; 1/25/05 referred to committee in Senate]
- **Case law (from annotations):**
 - ***Gross v. Albany County Bd. of Elections*, 781 N.Y.S.2d 172 (N.Y. App. Div. 3 Dept. 2004):** Affidavit on ballot signed by the voter, acknowledging that any false statement was punishable according to law, complied with requirements of law

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setting forth requirements for allowing voter to vote despite lack of registration poll record, despite failure of election inspector to witness voter's signature.

- ***Marraccini v. Balancia*, 582 N.Y.S.2d 232 (N.Y. App. Div. 2 Dept. 1992):** Affidavit ballots cast in general election for office of town mayor were invalid and should not have been counted, insofar as voters did not attempt to vote in election district for their address or were not registered on date of election.
- ***McClure v. D'Apice*, 497 N.Y.S.2d 770 (N.Y. App. Div. 2 Dept. 1986):** Vote of affidavit voter, who did not properly complete address portion of affidavit as required under Election Law § 8-302, subd. 3(f)(ii), would not be counted.
- ***Conroy v. Levine*, 479 N.Y.2d 187 (N.Y. App. Div. 2 Dept. 1984):** New election, after the fact, for village trusteeships was not warranted where there has been no showing of fraud or misconduct on the part of the inspectors of election or that any ineligible voter actually voted, and where the ten voters who were denied the opportunity to vote because no registration poll record could be found for them failed to avail themselves of the remedy of obtaining a court order on election day, when Justices of the Supreme Court were available for such purposes.
- ***People ex. rel. Borgia v. Doe*, 96 N.Y.S. 389 (N.Y. App. Div. 1 Dept. 1905):** The fact that some other person had voted on a registered elector's name did not deprive the elector of the right to insist that he be given a ballot and be permitted to vote, on complying with the requirements of the former Election Law of 1896.
- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **For registration/polls for new registrants:**
 - Same as HAVA – must have identification at registration or at polls or have included their driver's license number or social security number on registration form. N.Y. Elec. Law § 8-303 (2005).
 - **At polls/other voters:**
 - Announce name and address and sign poll record. N.Y. Elec. Law § 8-302 (2005); N.Y. Elec. Law § 8-304 (2005).
 - **First time voters or all?**
 - First time voters only. N.Y. Elec. Law § 8-303 (2005).
 - **When?**
 - Either at registration or at polls. N.Y. Elec. Law § 8-303 (2005).
 - **What types of ID?**
 - Current and valid photo identification
 - OR
 - Current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter
 - N.Y. Elec. Law § 8-303 (2005).
 - **State or federal elections?**
 - Both. Statute implementing HAVA does not make any distinction. N.Y. Elec. Law § 8-303 (2005). Also, voter registration form does not have any limitation on identification requirement limiting it to federal elections only. Voter registration form, at <http://www.elections.state.ny.us/download/voting/voteform.pdf>.

- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Affidavit ballot. N.Y. Elec. Law § 8-303 (2005).
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Affidavit. N.Y. Elec. Law § 8-303 (2005).
- **Challenge available at polls?**
 - Yes, a voter may be challenged at the polls by any inspector, clerk, appointed watcher, or registered voter. N.Y. Elec. Law § 8-502 (2005).

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MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: June 27, 2005
RE: States for ID requirements chart: North Carolina

North Carolina

Summary:

Presently, North Carolina does not require identification beyond HAVA. N.C. Gen. Stat. § 163-166.12 (2005). A voter who registered by mail and is voting for the first time must present identification at the polls. *Id.* A voter is exempt if he or she provided identification with his/her registration or provided the last four digits of his/her social security number or driver's license number on the registration form. *Id.* The forms of acceptable identification are the same as permissible under HAVA. *Id.* Without identification, these voters may execute an affidavit and vote a provisional ballot. N.C. Gen. Stat. § 163-166.12 (c) (2005); N.C. Gen. Stat. § 163-166.11 (2005). Other voters must merely state their name and current address prior to voting. N.C. Gen. Stat. § 163-166.7 (2005).

North Carolina recently passed a bill making it clear that new laws enacted to implement HAVA were intended to apply broadly to state and federal elections alike. 2005 N.C. Sess. Laws 2005-2. There are also two bills pending which concern voter identification. One would require all voters at the polls to provide a current photo identification *and* a copy of a utility bill, bank statement, government check, paycheck, or other government document with the voter's name and current address. H794, 2005-2006 Sess. (N.C. 2005). The other would require identification (of the same types permissible under HAVA) of all voters at the polls. H1446, 2005-2006 Sess. (N.C. 2005).

- **Statutes:** N.C. Gen. Stat. § 163-166.12 (2005).
 - **Passed:** 2003
- **Session law/recent legislation passed:**
 - 2005 N.C. Sess. Laws 2005-2: HAVA compliant laws/system in North Carolina should be broadly construed to apply to state and federal elections. [3/2/05 signed by governor]
- **Pending legislation:**
 - H794, 2005-2006 Sess. (N.C. 2005): requires all voters to provide at the polls a current and valid photo identification *and* a copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document. [3/17/05 introduced and referred to committee]
 - H1446, 2005-2006 Sess. (N.C. 2005): requires identification (same types as HAVA) of all voters in all elections. [4/21/05 introduced and referred to committee]
- **Case law (from annotations):** none
- **Administrative regulations:** none

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- **What the law requires:**
 - **Is ID required?**
 - **HAVA / at registration or at polls:**
 - Must present identification either at polls or at registration or provide the last four digits of his/her social security number or driver's license number on registration form. N.C. Gen. Stat. § 163-166.12 (2005).
 - **All voters at polls:**
 - State name and current residence address. N.C. Gen. Stat. § 163-166.7 (2005).
 - **First time voters or all?**
 - First time voters who registered by mail only. N.C. Gen. Stat. § 163-166.12 (a) (2005).
 - **When?**
 - Either at registration or at polls. N.C. Gen. Stat. § 163-166.12 (2005).
 - **What types of ID?**
 - Current and valid photo identification.
 - OR
 - A current utility bill, bank statement, government check, paycheck, or other government document.
 - N.C. Gen. Stat. § 163-166.12 (a) (2005).
 - **State or federal elections?**
 - Both. Legislature confirmed in 2005 that the enactments implementing HAVA were intended to make the rules the same for state and federal elections. 2005 N.C. Sess. Laws 2005-2.
 - Also voter registration form contains notice of identification requirement with no distinction between federal and state elections.
 - **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - May vote provisionally. N.C. Gen. Stat. § 163-166.12 (c) (2005).
 - **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Affidavit. N.C. Gen. Stat. § 163-166.11 (2005).
 - **Challenge available at polls?**
 - Yes, by any registered voter. N.C. Gen. Stat. § 163-87 (2005).

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: June 28, 2005
RE: States for ID requirements chart: North Dakota

North Dakota

Summary:

North Dakota's election laws are unique in that North Dakota does not require registration. Consequently, it is exempt from HAVA's identification and provisional voting provisions and also from the NVRA. North Dakota requires identification of all voters at the polls. In March of 2005, the legislature modified the voter identification requirements for voters at the polls. 2005 N.D. Laws 183, sec. 1, § 16.1-05-07. Previously, voters were required to show identification with their birth date and picture prior to voting. N.D. Cent. Code § 16.1-05-07 (2005). The new bill requires identification with the voter's address and date of birth. 2005 N.D. Laws 183, sec. 1, § 16.1-05-07. The Secretary of State has yet to advise voters on what identifications fulfill this new requirement. However, both the newer and earlier version of this statute permit a voter who is known to election officials to recite his date of birth and have the official vouch for his identity. N.D. Cent. Code § 16.1-05-07 (2005); 2005 N.D. Laws 183, sec. 1, § 16.1-05-07.

Without identification and without an election official to vouch for the voter, a voter will likely be challenged. N.D. Cent. Code § 16.1-05-07 (2005); N.D. Cent. Code § 16.1-05-06 (2005); *see also* Alvin Jaeger, Secretary of State, 2004 Election Officials' Manual (2004), <http://www.state.nd.us/sec/forms/pdf/election-offic-manual.pdf>. The voter may then execute an affidavit and vote a regular ballot. N.D. Cent. Code § 16.1-05-06 (2005).

There is a bill pending in the House which would eliminate the identification requirement entirely for voters that election officials personally know. HB 1405, 59th Legis. Assem. (2005).

- **Statutes:** N.D. Cent. Code § 16.1-05-07 (2005).
 - **Passed:**
 - 2003
- **Session law/recent legislation passed:**
 - 2005 N.D. Laws 183, sec. 1, § 16.1-05-07: amended § 16.1-05-07 to require identification containing address and date of birth rather than picture identification. [3/23/05 signed by governor]
 - Bill: HB 1254
- **Pending legislation:**
 - HB 1405, 59th Legis. Assem. (2005): no identification necessary for voters personally known to election officials. [2/15/05 failed to pass House]
- **Case law (from annotations):** none
- **Administrative regulations:** none
- **What the law requires:**
 - **Note:**
 - North Dakota is exempt from HAVA identification and provisional voting requirements because it does not require registration. Secretary of State, Al

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Jaeger, North Dakota HAVA Plan (2004), <http://www.state.nd.us/hava/documents/docs/2004-final-state-plan.pdf>.

○ **Is ID required?**

At polls:

▪ **PRIOR LAW:**

- Must show driver's license, form of identification with photo and birth date, or any other form of identification permitted by the Secretary of State (see below for forms okay under this previous provision). N.D. Cent. Code § 16.1-05-07 (2005).
 - Exception: voter states his date of birth and a poll worker can personally vouch for him. N.D. Cent. Code § 16.1-05-07 (2005).

▪ **RECENT BILL PASSED:**

- Must show identification with the voter's address and date of birth. 2005 N.D. Laws 183, sec. 1, § 16.1-05-07.
 - Bill maintains the exception described above. *Id.*

○ **First time voters or all?**

- All voters. No registration, so all voters are the same. However, some precincts maintain lists of voters that have voted in past elections. The voters appearing on this list are less likely to be challenged.

○ **When?**

- At polls. 2005 N.D. Laws 183, sec. 1, § 16.1-05-07.

○ **What types of ID?**

- **PRIOR LAW**: valid drivers license; valid state identification card; valid federally issued identification card, including: (1) passport (2) agency identification card; valid tribal identification card; valid student identification card; valid US military identification card; utility bill dated thirty days prior to election day with name and residential address; or change of address verification letter from the US Postal Service. *Id* Requirements, *available at* <http://www.state.nd.us/hava/education/doc/id-requirements.pdf>.
- **RECENT BILL PASSED**: official form of identification issued by the State, official identification issued by a tribal government, form of identification prescribed by Secretary of State, or any combination of the previous three. 2005 N.D. Laws 183, sec. 1, § 16.1-05-07.

○ **State or federal elections?**

- Both. 2005 N.D. Laws 183, sec. 1, § 16.1-05-07.

○ **Consequences of having no ID (provisional ballot v. regular ballot?)**

- Not specific, but if the voter is not personally known to election officials, he will probably be challenged. A challenged voter must execute an affidavit. The voter votes a regular ballot. N.D. Cent. Code § 16.1-05-07 (2005); N.D. Cent. Code § 16.1-05-06 (2005); *see also* Alvin Jaeger, Secretary of State, 2004 Election Officials' Manual (2004), <http://www.state.nd.us/sec/forms/pdf/election-offic-manual.pdf>.

○ **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**

- Affidavit if he is challenged. N.D. Cent. Code § 16.1-05-06 (2005).

- **Challenge available at polls?**
 - Yes. Poll challengers permitted at polls. Election board members may challenge. N.D. Cent. Code § 16.1-05-06 (2005).

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MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: June 29, 2005
RE: States for ID requirements chart: Ohio

Ohio

Summary:

Ohio has little formal law on voter identification. All voters are required to announce their name and address and sign the poll book, which is then compared to the voter registration card. Ohio Rev. Code Ann. § 3505.18 (2004). For voters who registered by mail and are voting for the first time in a federal election only the federal HAVA requirements apply. J. Kenneth Blackwell, Secretary of State, Ohio Voter Information Guide (2005), *available at* <http://serform.sos.state.oh.us/sos/pubAffairs/elections/voteGuide.pdf>. Ohio has not enacted a law incorporating the HAVA requirements into state law, thus the requirement only applies in federal elections, as required by the federal law. Ohio Secretary of State's website, <http://serform.sos.state.oh.us/sos/index.html>. All requirements are exactly what is required under federal law.

Ohio is considering several bills which would change voter identification requirements. SB 3 and HB 3 would enact the HAVA identification requirements for all elections. SB 3, 126th Gen. Assem., Reg. Sess. (Ohio 2005); HB 3, 126th Gen. Assem., Reg. Sess. (Ohio 2005). SB 36 would limit HAVA to voters who registered by mail voting for the first time in a federal election and apply a photo identification requirement to all other voters. SB 36, 126th Gen. Assem., Reg. Sess. (Ohio 2005). HB 129 would eliminate election day challenges. HB 129, 126th Gen. Assem., Reg. Sess. (Ohio 2005)

- **Statutes:** Ohio Rev. Code Ann. § 3505.18 (2004). [There is no statute implementing HAVA]
 - **Passed:**
 - § 3505.18 – at least since 1991.
- **Session law/recent legislation passed:** none
- **Pending legislation:**
 - SB 3, 126th Gen. Assem., Reg. Sess. (Ohio 2005): applies HAVA identification requirements to all elections. [1/24/05 in committee]
 - HB 3, 126th Gen. Assem., Reg. Sess. (Ohio 2005): adds identification requirement to voter registration form; if notification postcard returned, the voter must show identification at the polls; codifies HAVA identification provisions; provides provisional ballots for those without identification; requires voter who votes provisionally to return within ten days with identification. [5/17/05 passed House; second reading in Senate, in Senate committee]
 - SB 36, 126th Gen. Assem., Reg. Sess. (Ohio 2005): enacts HAVA requirements for elections for federal office only; photo identification requirement for all voters not subject to HAVA. [1/26/05 introduced and referred to committee]
 - HB 129, 126th Gen. Assem., Reg. Sess. (Ohio 2005): eliminates challenges on election day. [3/15/05 introduced, referred to committee]
- **Case law (from annotations):** none

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- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **For registration/polls/HAVA:**
 - New registrants who register by mail are required to provide identification either with the registration or at the polls unless the voter provided his/her current driver's license number or the last four digits of his/her social security number on the registration form. J. Kenneth Blackwell, Secretary of State, Ohio Voter Information Guide (2005), *available at* <http://serform.sos.state.oh.us/sos/pubAffairs/elections/voteGuide.pdf>.
 - **At polls/all voters:**
 - Announce name and address and sign poll book, which is compared to registration. Ohio Rev. Code Ann. § 3505.18 (2004).
 - **First time voters or all?**
 - First time voters who register by mail. J. Kenneth Blackwell, Secretary of State, Ohio Voter Information Guide (2005), *available at* <http://serform.sos.state.oh.us/sos/pubAffairs/elections/voteGuide.pdf>.
 - **When?**
 - At registration or at polls.
 - **What types of ID?**
 - A copy of a current and valid photo identification OR a copy of a current utility bill, bank statement, paycheck, government check, or other government document showing name and address. J. Kenneth Blackwell, Secretary of State, Ohio Voter Information Guide (2005), *available at* <http://serform.sos.state.oh.us/sos/pubAffairs/elections/voteGuide.pdf>.
 - Ohio liberally construes identification requirements allowing "any reasonable means of identification such as utility bills, rent receipts or any legal or quasi-legal instrument that bears the name and address of the prospective voter." Changing the Election Landscape in the State of Ohio: A State Plan to Implement the Help America Vote Act of 2002 in Accordance with Public Law 107-252, §253(b) (2005), *available at* <http://serform.sos.state.oh.us/sos/hava/files/StatePlan12005.pdf>.
 - **State or federal elections?**
 - Federal only. Secretary of State's webpage repeatedly refers to HAVA requirements applying "for persons registering by mail and voting for the first time in a *federal* election." Ohio Secretary of State's website, <http://serform.sos.state.oh.us/sos/index.html> (emphasis added).
 - Also, there is no statute or administrative regulation implementing HAVA, thus only the federal law applies.
 - **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Same as federal law, provisional ballot.
 - **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - None.

- **Challenge available at polls?**
 - Yes, by any challenger, voter properly in the polling place, or election judge. Ohio Rev. Code Ann. § 3505.20 (2004).

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: June 29, 2005
RE: States for ID requirements chart: Oklahoma

Oklahoma

Summary:

Oklahoma does not require anything beyond the federal requirements of HAVA for voter identification. Okla. Stat. Ann. tit. 26, § 7-115.2 (2004). Voters who registered by mail and are voting for the first time in a federal election are required to produce identification if they did not produce it at registration. *Id.* The types of identification are identical to the forms permitted under HAVA except for the addition of a voter registration card. *Id.* Without proper identification, the voter may vote a provisional ballot. Okla. Stat. Ann. tit. 26, § 7-115.2 (2004); Okla. Stat. Ann. tit. 26, § 7-116.1 (2004). All other voters must merely announce their name and sign the precinct register prior to voting. Okla. Stat. Ann. tit. 26, § 7-114 (2004); Okla. Stat. Ann. tit. 26, § 7-117 (2004).

There are several bills pending concerning voter identification. HB 1373, HB 1487, and HB 1528 require photo identification prior to voting, but allow voters to execute an affidavit as an alternative. HB 1373, 50th Legis Sess., 1st Sess. (Okla. 2005); HB 1487, 50th Legis Sess., 1st Sess. (Okla. 2005); HB 1528, 50th Legis Sess., 1st Sess. (Okla. 2005). SB 456 would require voters to show a voter identification card prior to voting. SB 456, 50th Legis Sess., 1st Sess. (Okla. 2005). SB 298 and SB 791 would require proof of identity (government issued photo identification) at the polls. SB 298, 50th Legis Sess., 1st Sess. (Okla. 2005); SB 791, 50th Legis Sess., 1st Sess. (Okla. 2005). All of these bills are currently in committee, but HB 1487 has passed the House and is in committee in the Senate.

- **Statutes:** Okla. Stat. Ann. tit. 26, § 7-115.2 (2004).
 - **Passed:**
 - § 7-115.2 – 2004
- **Session law/recent legislation passed:** none
- **Pending legislation:**
 - HB 1373, 50th Legis Sess., 1st Sess. (Okla. 2005): requiring photo identification at the polls; voters may execute an affidavit as an alternative. [2/8/05 in committee]
 - HB 1487, 50th Legis Sess., 1st Sess. (Okla. 2005): requiring photo identification at the polls; voters may execute an affidavit as an alternative. [3/16/05 passed House; 3/28/05 in Senate committee]
 - HB 1528, 50th Legis Sess., 1st Sess. (Okla. 2005): requiring photo identification at the polls; voters may execute an affidavit as an alternative. [2/8/05 in committee]
 - SB 298, 50th Legis Sess., 1st Sess. (Okla. 2005): requiring proof of identity at the polls, this includes: driver's license, passport, state identification card, or photocopy of the previous three. [2/8/05 in committee]

- SB 456, 50th Legis Sess., 1st Sess. (Okla. 2005): requiring voters to present a voter identification card prior to voting. [2/8/05 in committee]
- SB 791, 50th Legis Sess., 1st Sess. (Okla. 2005): requiring proof of identity at the polls, this includes: voter identification card, driver's license, passport, state identification card, or photocopy of the previous four. [2/8/05 in committee]
- **Case law (from annotations):** none
- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **For registration/at polls/HAVA requirements:**
 - Registered voters who submitted applications for new voter registration by mail who are voting for the first time in a federal election are required to produce identification. Okla. Stat. Ann. tit. 26, § 7-115.2 (2004).
 - **At polls/all voters:**
 - Announce name and sign in precinct register. Okla. Stat. Ann. tit. 26, § 7-114 (2004); Okla. Stat. Ann. tit. 26, § 7-117 (2004).
 - **First time voters or all?**
 - First time voters who registered by mail. Okla. Stat. Ann. tit. 26, § 7-115.2 (2004).
 - **When?**
 - Either at registration or at polls. Okla. Stat. Ann. tit. 26, § 7-115.2 (2004).
 - **What types of ID?**
 - Current and valid photo identification
 - Voter identification card (addition from HAVA)
 - copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the voter's name and address
 - Okla. Stat. Ann. tit. 26, § 7-115.2 (2004).
 - **State or federal elections?**
 - Possibly federal only. Statute says "when they vote for the first time in a federal election." Okla. Stat. Ann. tit. 26, § 7-115.2 (2004).
 - Probably both, since no distinction made on voter registration form. State of Oklahoma Voter Registration Form, at <http://www.state.ok.us/~elections/vrform.pdf>.
 - **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot for all elections and issues. Okla. Stat. Ann. tit. 26, § 7-115.2 (2004); Okla. Stat. Ann. tit. 26, § 7-116.1 (2004).
 - **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - None, but vote only counts if election board can verify the voter's identity. Okla. Stat. Ann. tit. 26, § 7-116.1 (2004).
 - **Challenge available at polls?**
 - No. Election website does not mention challenges, and there are no administrative regulations or statutes allowing for challenge at the polls.

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: June 30, 2005
RE: States for ID requirements chart: Oregon

Oregon

Summary:

Oregon is unique in its election law. Since 2000, Oregon has conducted even Presidential elections by mail. Consequently, the identification requirements of HAVA are modified to accommodate vote-by-mail. Oregon does not require any identification beyond the HAVA requirements. First time voters who registered by mail must provide identification (same forms as HAVA) with their registration, upon request after registration, or with their ballot. Secretary of State, Bill Bradbury, Oregon Elections Plan: To Implement the Help America Vote Act of 2002, 22-23 (2003), http://www.uhavavote.org/pdf/state_plan.pdf. Without identification, a voter may still vote for state and local elections as normal. Secretary of State Letter dated December 26, 2002, at http://www.sos.state.or.us/elections/votereg/hava_nr.pdf. For federal elections, their ballot is considered a provisional ballot, and if their eligibility can be verified, their ballot will count. Secretary of State, Bill Bradbury, Oregon Elections Plan: To Implement the Help America Vote Act of 2002, 22-23 (2003), http://www.uhavavote.org/pdf/state_plan.pdf.

Obviously, there is no identification requirement for other voters, as they are permitted to vote by mail; however, for all voters, the signature on their ballot envelope is compared to the signature on their registration card.

There are two bills pending which concern voter identification. HB 2583 and 2841 would both require proof of citizenship at registration in the form of a passport, birth certificate, or naturalization document. HB 2583, 73rd Legis. Assem. (Or. 2005); HB 2841, 73rd Legis. Assem. (Or. 2005). HB 2583 has passed the House and is pending in the Senate.

- **Statutes:** none concerning voter identification.
- **Session law/recent legislation passed:** none
- **Pending legislation:**
 - HB 2583, 73rd Legis. Assem. (Or. 2005): voters must provide proof of citizenship (passport, birth certificate, naturalization documents) with registration [5/19/05 passed House, 5/27/05 in Senate committee]
 - HB 2841, 73rd Legis. Assem. (Or. 2005): voters must provide proof of citizenship (passport, birth certificate, naturalization documents) with registration [3/11/05 in committee]
- **Case law (from annotations):** none
- **Administrative regulations:** none concerning voter identification.
- **What the law requires:**
 - **Is ID required?**
 - **First time voters:**

- HAVA requirements, same identification forms. Voting in Oregon Guide, <http://www.uhavavote.org/votingguide/register.html#where>.
- **At polls/all voters:**
 - None, vote by mail, so voters do not attend polls.
 - Signature on envelope is checked against registration when ballot returned.
- **First time voters or all?**
 - First time voters who register by mail. Voting in Oregon Guide, <http://www.uhavavote.org/votingguide/register.html#where>.
- **When?**
 - At registration, after request to provide identification after registration received, or with mailed ballot. Secretary of State, Bill Bradbury, Oregon Elections Plan: To Implement the Help America Vote Act of 2002, 22-23 (2003), http://www.uhavavote.org/pdf/state_plan.pdf.
- **What types of ID?**
 - Must have name and address, acceptable forms include:
 - valid photo identification (such as a driver's license)
 - a paycheck stub
 - a utility bill
 - a bank statement
 - a government document (with name and address of the voter)
 - Voter registration form, at <http://www.sos.state.or.us/elections/votreg/sel500.pdf>
- **State or federal elections?**
 - Federal only. Without identification, a voter may still vote as normal in state and local elections. Secretary of State Letter dated December 26, 2002, at http://www.sos.state.or.us/elections/votreg/hava_nr.pdf.
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot as to the federal elections only. Secretary of State, Bill Bradbury, Oregon Elections Plan: To Implement the Help America Vote Act of 2002, 22-23 (2003), http://www.uhavavote.org/pdf/state_plan.pdf.
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - If the election officials cannot verify the voter's eligibility to vote, no vote for federal office. May still vote for state and local offices as normal. Secretary of State, Bill Bradbury, Oregon Elections Plan: To Implement the Help America Vote Act of 2002, 22-23 (2003), http://www.uhavavote.org/pdf/state_plan.pdf.
- **Challenge available at polls?**
 - Yes, when election conducted at polling places, voters may be challenged by election board clerks or any voter. Or. Rev. Stat. § 254.419 (2003).
- **Miscellaneous:**

- Has election by mail for all elections on the general election date or primary date. (began in 1998

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: July 1, 2005
RE: States for ID requirements chart: Pennsylvania

Pennsylvania

Summary:

Currently, all first time voters must produce either photo identification or an alternative identification with their name and address prior to voting at the polls. Pa. Stat. Ann. tit. 25, § 3050 (2004). Without either form of identification, the voter must sign an affidavit and cast a provisional ballot. *Id.* This identification requirement is stricter than HAVA; all first time voters must produce identification, regardless of the method of registration. *Id.* It is also stricter than HAVA in that the identification must be produced at the polls, and providing identification at registration does not exempt the voter from the requirement. *Id.* The requirement applies to both state and federal elections. The forms of identification are similar to HAVA and include a wide array of forms of identification. *Id.*

Pennsylvania's election law concerning first time voters voting in person will change slightly after October 8, 2005. 2004 Pa. Stat. Ann. tit. 25, § 3050 (2004); 2004 Pa. Laws 97. After October 8, election officers must sign an affidavit attesting to the fact that the voter's identification was actually examined, and a procedure for challenging provisional ballots will go into effect. *Id.*

Voters who vote absentee for the first time and registered by mail are only subject to the HAVA requirements and only if they registered by mail. Commonwealth of Pennsylvania, State Plan As Amended, As Required by Public Law 107-252, The Help America Vote Act of 2002, 28, [http://www.hava.state.pa.us/hava/lib/hava/stateplan/2004_state_plan_\(elements_6_10_12_to_be_sent_to_eac\)-approved_\(08-13-04\)1.doc](http://www.hava.state.pa.us/hava/lib/hava/stateplan/2004_state_plan_(elements_6_10_12_to_be_sent_to_eac)-approved_(08-13-04)1.doc).

- **Statutes:** Pa. Stat. Ann. tit. 25, § 3050 (2004).
 - **Passed:**
 - § 3050 – 2002, amended in 2004 with changes effective on 10/8/05.
- **Session law/recent legislation passed:**
 - 2004 Pa. Laws 97: amends § 3050, effective October 8, 2005, requires election official to sign an affidavit that identification was examined; changes provisional balloting procedure.
 - SB 346
- **Pending legislation:** none
- **Case law (from annotations):**
 - *In re Second Legislative Dist. Election*, 4 Pa. D. & C.2d 93 (1955): A vote cast by a voter in her maiden name, after her marriage and the death of her husband, without any change in her registration, although irregular and contrary to instructions, will be counted where there is no question of identity.
 - *In re Morganroth Election Contest*, 50 Pa. D. & C. 143 (1944): In the absence of fraudulent intent on the part of the voter or of the election officers

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or of any conspiracy between them, the failure of an election board to require each elector desiring to vote first to sign a voter's certificate, and to compare the signature on such certificate with the elector's signature in the district register, is a mere irregularity not warranting rejection of entire vote cast in district.

- *Commw. v. Albert*, 30 A.2d 184 (Pa. Super. Ct. 1943): Each member of election board must be on guard to prevent any form of fraud or irregularity that would interfere with a fair election, and if irregularity or fraud being perpetrated in course of election is detected, appropriate action should be taken immediately to stop such misconduct. Election inspector having numbered list of voters and record of those who assisted voters and inspector whose duties included comparing signatures of those desiring to vote were under a duty to prevent persons not registered as qualified electors from signing the names of electors to voters' certificates
- *In re General Election in City and County of Philadelphia on November 8, 1938*, 2 A.2d 301 (Pa. 1938): Where city registration commissioners and their agents failed properly to file registration cards in the election districts in which electors resided, substitution of affidavits to duplicate original registration forms for missing registration cards would not be authorized, but voters could establish their right to vote by secondary evidence before judges qualified to sit in the common pleas. The requirement of this section that voter's registration card be in the district register of voter's election district is a mere aid in the proof of the existence of the record showing voter's qualifications, as a part of a public record. The rule that contents of a lost or missing record may be proved by secondary evidence is applicable to registration cards showing voter's qualifications.
- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **First time voters:**
 - **UNTIL OCT 8:**
 - All first time voters must produce photo identification prior to voting at the polls. Pa. Stat. Ann. tit. 25, § 3050 (a) (2004).
 - If the voter has no photo identification, they must produce alternative identification with name and address. Pa. Stat. Ann. tit. 25, § 3050 (a.1) (2004).
 - If no identification at all, the voter must sign an affidavit and cast a provisional ballot. Pa. Stat. Ann. tit. 25, § 3050 (a.2), (a.4)(2) (2004).
 - **AFTER OCT 8 (changes underlined):**
 - All first time voters must produce photo identification prior to voting at the polls, and election officer must sign affidavit that the identification was examined. Pa. Stat. Ann. tit. 25, § 3050 (a) (2004).

- If the voter has no photo identification, they must produce alternative identification with name and address, and election officer must sign affidavit that the identification was examined. Pa. Stat. Ann. tit. 25, § 3050 (a.1) (2004).
- If no identification at all, the voter must sign an affidavit and cast a provisional ballot. Pa. Stat. Ann. tit. 25, § 3050 (a.2), (a.4)(2) (2004).
- Procedure for challenging provisional ballots goes into effect on Oct. 8. Pa. Stat. Ann. tit. 25, § 3050 (a.4)(4) (2004).
- **All voters:**
 - All voters must sign a voter's certificate, and their signature is compared with the signature on file. Pa. Stat. Ann. tit. 25, § 3050 (a.3) (2004).
- **First time voters or all?**
 - First time voters in the county or voters that have moved within the county – all who are new registrants who vote in person, not just those who registered by mail. Pa. Stat. Ann. tit. 25, § 3050 (a)-(a.2) (2004); Pennsylvania Voter Guide, 3, <http://www.dos.state.pa.us/voting/lib/voting/guide/engguide.pdf>.
 - Absentee voters who vote for the first time must submit identification either with their registration or with their ballot if they registered by mail only. Commonwealth of Pennsylvania, State Plan As Amended, As Required by Public Law 107-252, The Help America Vote Act of 2002, 28, [http://www.hava.state.pa.us/hava/lib/hava/stateplan/2004_state_plan_elements_6_10_12_to_be_sent_to_eac--approved_\(08-13-04\)1.doc](http://www.hava.state.pa.us/hava/lib/hava/stateplan/2004_state_plan_elements_6_10_12_to_be_sent_to_eac--approved_(08-13-04)1.doc).
- **When?**
 - At polls for voters who vote in person. Pa. Stat. Ann. tit. 25, § 3050 (a) (2004); Commonwealth of Pennsylvania, State Plan As Amended, As Required by Public Law 107-252, The Help America Vote Act of 2002, 28, [http://www.hava.state.pa.us/hava/lib/hava/stateplan/2004_state_plan_elements_6_10_12_to_be_sent_to_eac--approved_\(08-13-04\)1.doc](http://www.hava.state.pa.us/hava/lib/hava/stateplan/2004_state_plan_elements_6_10_12_to_be_sent_to_eac--approved_(08-13-04)1.doc).
 - At either registration or with ballot for absentee voters. Commonwealth of Pennsylvania, State Plan As Amended, As Required by Public Law 107-252, The Help America Vote Act of 2002, 28, [http://www.hava.state.pa.us/hava/lib/hava/stateplan/2004_state_plan_elements_6_10_12_to_be_sent_to_eac--approved_\(08-13-04\)1.doc](http://www.hava.state.pa.us/hava/lib/hava/stateplan/2004_state_plan_elements_6_10_12_to_be_sent_to_eac--approved_(08-13-04)1.doc).
- **What types of ID?**
 - UNTIL OCT 8, 2005 & AFTER OCT. 8 – photo identification (types of identification are the same):
 - Valid driver's license or identification card issued by Department of Transportation

- Valid identification card issued by another State agency
- Valid identification issued by federal government
- Valid passport
- Valid student identification card
- Valid employee identification card
- Valid military identification card
- Pa. Stat. Ann. tit. 25, § 3050 (a) (2004).
- **UNTIL OCT. 8 & AFTER OCT. 8 – alternative identification types:**
 - Nonphoto identification issued by PA or agency of
 - Voter identification card – not in statute but listed as acceptable form on website. Pennsylvania Department of State Website, <http://www.hava.state.pa.us/hava/cwp/view.asp?a=1189&q=442312>
 - Nonphoto identification issued by federal government
 - Firearm permit
 - Current utility bill
 - Current bank statement
 - Paycheck
 - Government check
 - Pa. Stat. Ann. tit. 25, § 3050 (a.1) (2004).
- **State or federal elections?**
 - Both. Pa. Stat. Ann. tit. 25, § 3050 (2004).
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot. Pa. Stat. Ann. tit. 25, § 3050 (a.2) (2004).
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Affidavit. Pa. Stat. Ann. tit. 25, § 3050 (a.4)(2) (2004).
- **Challenge available at polls?**
 - Yes. Pa. Stat. Ann. tit. 25, § 2685 (2004); Pa. Stat. Ann. tit. 25, § 2687 (2004); Pa. Stat. Ann. tit. 25, § 3528 (2004).

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MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: July 1, 2005
RE: States for ID requirements chart: Rhode Island

Rhode Island

Summary:

Rhode Island does not require any identification of voters by State law. State law requires that voters state their name and address and sign a ballot application. R.I. Gen. Laws § 17-19-24 (2004). The only identification requirements that apply to voters are the federal HAVA requirements for first time voters who register by mail. It appears, however, from Rhode Island's election website that Rhode Island extends the requirement to all elections, not just federal elections. Rhode Island Voter Registration Form, <http://www.elections.state.ri.us/docs/VR6-04.pdf>. Without identification, voters may vote a provisional ballot, as required by federal law. Rhode Island Board of Elections: Frequently Asked Questions, <http://www.elections.state.ri.us/frequent.htm>.

There is a bill pending in the House which would require voters to present either one form of identification with the name, address, and photo of the voter or two forms of identification with the name and address of the voter. HB 5976, 2005-2006 Legis. Sess. (R.I. 2005).

- **Statutes:** R.I. Gen. Laws § 17-19-24 (2004). [But no statute implementing HAVA requirements]
 - **Passed:**
 - § 17-19-24 – at least since 1994 – probably a lot longer
- **Session law/recent legislation passed:** none
- **Pending legislation:**
 - HB 5976, 2005-2006 Leg. Sess. (R.I. 2005): requiring all voters to present one form of identification with the name, address, and photo of the voter or two forms with the name and address of the voter. [3/23/05 Committee hearing]
- **Case law (from annotations):** none
- **Administrative regulations:** none, and has no administrative code.
- **What the law requires:**
 - **Is ID required?**
 - **For registration or polls/HAVA:**
 - First time voters who mailed their registration must provide identification either at polls or at registration – HAVA requirement. (no state statute) Rhode Island Board of Elections: Registering to Vote, <http://www.elections.state.ri.us/registration/intro.htm>; Rhode Island Voter Registration Form, <http://www.elections.state.ri.us/docs/VR6-04.pdf>.

- **At polls/all voters:**
 - All voters must state their name and address at the polls and sign their name on a ballot application. R.I. Gen. Laws § 17-19-24 (2004).
- **First time voters or all?**
 - First time voters who mail their registration. Rhode Island Board of Elections: Registering to Vote, <http://www.elections.state.ri.us/registration/intro.htm>; Rhode Island Voter Registration Form, <http://www.elections.state.ri.us/docs/VR6-04.pdf>.
- **When?**
 - Registration or polls. Rhode Island Board of Elections: Registering to Vote, <http://www.elections.state.ri.us/registration/intro.htm>.
- **What types of ID?**
 - Either a copy of a current and valid photo identification OR a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the voter's name and address.
 - Rhode Island Board of Elections: Registering to Vote, <http://www.elections.state.ri.us/registration/intro.htm>; Rhode Island Voter Registration Form, <http://www.elections.state.ri.us/docs/VR6-04.pdf>
- **State or federal elections?**
 - Probably both. Doesn't seem to be a distinction made, most materials say "when voting for the first time" rather than "when voting for the first time in a federal election." Rhode Island Voter Registration Form, <http://www.elections.state.ri.us/docs/VR6-04.pdf>.
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot. Rhode Island Board of Elections: Frequently Asked Questions, <http://www.elections.state.ri.us/frequent.htm>.
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - None beside provisional vote. R.I. Gen. Laws § 17-19-24.1 (2004).
- **Challenge available at polls?**
 - Yes, watchers and election officials may challenge at polls. R.I. Gen. Laws § 17-19-22 (2004).

MEMORANDUM

TO: Sara Sampson
FROM: Sarah Shive
DATE: August 31, 2005
RE: States for ID requirements chart: South Carolina

South Carolina

Summary:

South Carolina requires voters to present a valid South Carolina driver's license or other photographic South Carolina identification, if the voter does not have a driver's license. S.C. Code Ann. §7-13-710. A voter may also present their signed registration notification. *Id.*

South Carolina has not codified provisions for voter identification when voters register in person or via mail. The state's voter registration by mail form offers evidence that they comply with the Help America Vote Act of 2002 in their actual identification requirements, but have made no state law related to the matter.

There are also no state statutes related to the consequences of having no identification when appearing at the polls.

- **Statutes:**
 - **Passed:**
 - **§7-13-710** – 1962; 1988 permitted registration notification to be used as identification if signed.
- **Session law/recent legislation passed:**
 - None.
- **Pending legislation:**
 - **2005 SC H.B. 3451:** proposes to add a U.S. passport as a form of identification that may be presented by a voter at the polls (Feb. 3, 2005)
 - **2005 SC H.B. 3461:** proposes to add a photographic college identification card as identification that may be presented by a voter at the polls if they do not have a driver's license (Feb. 3, 2005)
- **Case law (from annotations):**
 - None
- **Administrative regulations:**
 - None.
- **What the law requires:**
 - **Is ID required?**
 - **For registration:**
 - No statutes address the matter.
 - **At polls:**
 - At the polls, voters are required to present a valid South Carolina driver's license or other photographic South Carolina identification, if the voter does not have a driver's license. A signed copy of the voter's registration confirmation may also be presented if the voter does not have a driver's license.
 - **First time voters or all?**

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- All
- **When?**
 - At the polls before voting.
- **What types of ID?**
 - When registering by mail: No statutes address the matter.
 - When registering in person: No statutes address the matter.
 - At the polls: Voters are required to present a valid South Carolina driver's license or other photographic South Carolina identification, if the voter does not have a driver's license. A signed copy of the voter's registration confirmation may also be presented if the voter does not have a driver's license.
- **State or federal elections?**
 - Both
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - No statutes address the matter.
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - No statutes address the matter.
- **Challenge available at polls?**
 - Yes.

MEMORANDUM

TO: Sara Sampson
FROM: Jaime Molbreak
DATE: August 30, 2005
RE: Voter Identification – South Dakota

South Dakota

Summary

In order to cast a ballot in an election, South Dakota voters must present themselves to the precinct worker in charge of the registration list, announce their name and show valid photo identification. S.D. CODIFIED LAWS § 12-18-6.1 (Michie 2005). If the voter does not have a valid identification card, the voter must complete a personal identification affidavit. § 12-18.6.2. A member of the election board must verify that the picture on the ID matches the voter. § 12-18.6.3. The name on the ID must also match the name on the voter registration list. *Id.* If the election board worker cannot make this verification, the worker may consider other forms of identification, personal knowledge, and the voter's explanation. *Id.* If the voter's identity cannot be proven to the satisfaction of the election board the voter may vote a provisional ballot. *Id.* This is significant because between 5 percent and 10 percent of South Dakota's Native American population lack a photo ID due to poverty.¹ §12-1-1 of S.D. CODIFIED LAWS (2005) provides that the provisions in Title 12 that follow apply to elections for state and local officers. In certain counties, a person proficient in both local Sioux dialect and English must be present in all precincts of the county. § 12-3-10. South Dakota does not offer early voting.²

- **Statutes** S.D. CODIFIED LAWS § 12-4-5.5 (Michie 2005); S.D. CODIFIED LAWS § 12-19-2.1 (Michie 2005)
 - **Passed**
 - The legislature recently voted to amended § 12-4-5.5 to include a check for authenticity of a driver's license number or social security number at the time voter registration information is transmitted from a county to the statewide voter registration file. HB 1007.
 - Additionally, the legislature amended § 12-19-2.1, permitting absentee voting on the day of an election. HB 1110.
- **Session Law / Recent Legislation Passed**
 - See above
- **Pending Legislation**
 - SB 120, 80th Gen. Assem. 2005 Reg. Sess. (S.D. 2005) failed a vote in the Senate, but was proposed to allow a voter who is recognized by election judges to vote without photo identification or affidavit.

¹ Information from www.reformelections.org (August 30, 2005).

² National Conference of State Legislatures, <http://www.ncsl.org/programs/legman/elect/absentearly.htm> (August 30, 2005).

- **Case Law (from annotations)**
 - None
- **Administrative Regulations**
 - None
- **What the Law Requires**
 - **Is ID Required?**
 - **For Registration:**
Provide driver's license number or last four digits of social security number. These will be subject to a review for authenticity pursuant to aforementioned recent legislation. If a person does not have a driver license or social security number, the person may only register at the county auditor's office and must sign a statement to that effect. § 12-4-5.4.
 - **At Polls:**
A voter requesting a ballot must present a valid form of identification. § 12-18-6.1. If a voter is not able to present a form of personal identification as required by § 12-18-6.1, the voter may complete an affidavit in lieu of the personal identification.
 - **Absentee Voters:**
Recent legislation provides that absentee voting is permitted on the day of an election. See HB 1110. The election board compares the signature on the statement on the ballot return envelope with the signature on the written application received from the auditor. § 12-19-10.
 - **First-time voters or all?**
All.
 - **When?**
At the polls.
 - **What types of ID?**
A voter must announce their name and present either a South Dakota driver's license or non-driver identification card; a passport or an identification card, including a picture, issued by an agency of the United States government; a tribal identification card, including a picture; or an identification card, including a picture, issued by an accredited institution of higher education, including a university, college, or technical school, located within the State of South Dakota. § 12-18-6.1.
 - **Consequences of having no ID (provisional ballot v. regular ballot)**
If the voter's identity can't be proven to the satisfaction of the election board, the voter may vote a provisional ballot. § 12-18-6.3.
 - **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
If the voter does not have a valid identification card, the voter must complete a personal identification affidavit. § 12-18-6.2. The affidavit requires the voter to provide his or her name and address.

▪ **Challenge available at polls?**

Yes. A voter may only be challenged as to their identity or on grounds that within fifteen days preceding the election the person has been convicted of a felony or declared by proper authority to be mentally incompetent. The proceedings are be conducted before the precinct superintendent and precinct deputies who must determine from the evidence presented whether or not the person is permitted to vote. § 12-18-10. Pursuant to § 12-18-39, If any person is successfully challenged under § 12-18-10, the person may cast a provisional ballot.

MEMORANDUM

TO: Sara Sampson
FROM: Jaime Lebo
DATE: September 1, 2005
RE: States for ID requirements chart: Tennessee

Tennessee

Summary:

In Tennessee, registrars must verify that the voter's signature and information on the application for ballot matches the signature and information on the duplicate permanent registration record, if the county is not computerized. Tenn. Code Ann. §2-7-112 (2005). If the county is electronic, then the registrar must compare the voter's signature and information on the computerized signature list with other evidence of identification supplied by the voter. *Id.* "Evidence of identification" means a valid voter's registration certificate, Tennessee driver license, social security card, credit card bearing the applicant's signature or other document bearing the applicant's signature. *Id.*

If the voter's eligibility to vote at a particular precinct cannot be determined, the voter may vote provisionally with verification of the voter's residential address. *Id.* The type of verification includes, but is not limited to, a Tennessee driver license, a residential lease agreement, a utility bill or other document bearing the applicant's residential address. *Id.*

If the voters register by mail, they must present satisfactory proof of identity before voting. §2-2-115(b)(7) (2005).

There are two bills that are pending which would require the voter to present a photo identification to the registrar or two forms of identification that state the name and address of the voter. 2005 TN S.B. 1595 (SN); 2005 TN H.B. 196 (SN).

- **Statutes:** Tenn. Code Ann. §2-7-112 (2005).
 - 2003 added provisions to set out the procedures used for casting a provisional ballot
- **Session law/recent legislation passed:** none
- **Pending legislation:**
 - 2005 TN S.B. 1595 (SN), 104th Gen. Assem.: amends §2-7-112(a)(1) and requires the voter to present to the registrar one form of identification that bears the name, address and photograph of the voter or two different forms of identification that bear the name and address of the voter [introduced 2/3/05]
 - 2005 TN H.B. 196 (SN), 104th Gen. Assem.: amends §2-7-112(a)(1) and requires the voter to present to the registrar one form of identification that bears the name, address and photograph of the voter or two different forms of identification that bear the name and address of the voter [introduced 2/1/05]

- **Case law (from annotations):**
 - none
- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **For registration:**
 - If registering by mail: before voting, voter must present satisfactory proof of identity. This does not apply to a voter who is on the permanent absentee voting register. §2-2-115(b)(7) (2005).
 - **At polls:**
 - After registrar verifies that the voter's signature and information on the application for ballot matches the signature and information on the duplicate permanent registration record, he will initial the application, which will serve as the voter's identification for a paper ballot or for admission to a voting machine. Tenn. Code Ann. §2-7-112(a)(1) (2005).
 - **Computerized county:**
 - Registrar must compare the voter's signature and information on the computerized signature list with other evidence of identification supplied by the voter. §2-7-112(a)(2)(B) (2005).
 - **Provisional voter:**
 - Voter must present verification of the residential address under which the person desires to vote. §2-7-112(a)(3)(A)(i) (2005).
 - **Early voting at polls:**
 - Upon completion of the application, the administrator of elections shall compare the signature of the voter with the signature on the voter's permanent registration record, or other evidence of identification if computerized duplicate registration records are used. §2-6-109(a) (2005).
 - **First time voters or all?**
 - All. §2-7-112 (2005).
 - **When?**
 - At the polls. §2-7-112 (2005).
 - **What types of ID?**
 - For purposes of comparing the person's signature on the application for ballot, "evidence of identification" shall be a valid voter's registration certificate, Tennessee driver license, social security card, credit card bearing the applicant's signature or other document bearing the applicant's signature. §2-7-112(c) (2005).
 - For purposes of registering a voter to vote provisionally, "verification of residential address" shall include, but is not limited to, a Tennessee driver license, a residential lease agreement, a

utility bill or other document bearing the applicant's residential address. §2-7-112(d) (2005).

- **State or federal elections?**
 - All elections. §2-7-112 (2005).
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot. §2-7-112(a)(3)(A) (2005).
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Must execute an affidavit of identity. §2-7-112(a)(2)(D) (2005).
- **Challenge available at polls?**
 - Yes. §2-7-123 (2005).

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: July 5, 2005
RE: States for ID requirements chart: Texas

Texas

Summary:

Texas law requires that first time voters who registered by mail provide proof of identity. Tex. Elec. Code Ann. § 13.122 (2004). The forms of identification include: (1) driver's license or state identification card; (2) photo identification of any kind; (3) birth certificate; (4) citizenship papers; (5) passport; (6) official mail from a government entity; (7) current utility bill, bank statement, government check, paycheck, or other government document that shows the voter's name and current address. Tex. Elec. Code Ann. § 63.0101 (2004). Voters may submit the proof of identity at the polls or with their registration. Texas Voter Registration Form, <http://www.sos.state.tx.us/elections/forms/vr17.pdf>.

Under Texas law, all voters must present their voter registration certificate prior to voting. Tex. Elec. Code Ann. § 63.001 (2004). Without the registration certificate (and voter is on precinct list of voters), the voter may only vote a regular ballot if he executes an affidavit that he does not have his voter registration certificate and shows proof of identification (same forms as above). Tex. Elec. Code Ann. § 63.008 (2004). If the voter does not have his registration certificate and is not on the precinct list of voters, he must execute an affidavit that he is a registered voter and is eligible to vote and vote a provisional ballot. Tex. Elec. Code Ann. § 63.009 (2004). However, if the precinct worker can determine the voter is eligible from identification presented, the voter may execute an affidavit that he does not have his certificate and vote a regular ballot. *Id.*

All voters must also sign the signature roster. Tex. Elec. Code Ann. § 63.002 (2004).

Texas recently passed HB 2309, which had required voter identification in earlier versions, but the enrolled version did not include the provisions. There were several bills pending this session which would have required voter identification at the polls, but most died in committee. HB 1706 is still pending and would require voters to present their voter registration certificate and two forms of identification (same forms as for proof of identity now). HB 1706, 79th Legis., Reg. Sess. (Tex. 2005).

• Statutes:

- Tex. Elec. Code Ann. § 63.001 (2004): must present voter registration certificate at polls.
- Tex. Elec. Code Ann. § 63.002 (2004): must sign signature register.
- Tex. Elec. Code Ann. § 63.006 (2004): voter with certificate not on the list may vote.
- Tex. Elec. Code Ann. § 63.008 (2004): without registration certificate (and on the precinct list of voters), voter must execute affidavit that he/she does

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- not have the certificate with him/her and must present identification (otherwise, the voter votes provisionally).
- Tex. Elec. Code Ann. § 63.009 (2004): without registration certificate (and not on the precinct list of voters), voter must execute affidavit that he/she is a registered voter and is eligible and vote provisionally; however, if the precinct worker can determine that the voter is eligible from identification presented, the voter may execute an affidavit that he does not have the certificate and vote a regular ballot.
- Tex. Elec. Code Ann. § 63.0101 (2004): ID forms
- **Passed:**
 - § 63.001 – 1985
 - § 63.002 – 1985
 - § 63.006 – 1985
 - § 63.008 – 1985; amended in 1997, 2003
 - § 63.009 – 1985; amended in 1997, 2003
 - § 63.0101 – 1997; amended in 2003
- **Session law/recent legislation passed:** Texas passed HB 2309, which had required voter identification in an earlier version, but the voter identification provisions were dropped from the bill passed.
- **Pending legislation:**
 - HB 1706, 79th Leg., Reg. Sess. (Tex. 2005): would require voter to present voter registration certificate and two forms of identification (same list as currently used for proof of identity) [2/28/05 introduced; 5/3/05 passed House with amendments; 5/5/05 referred to Senate committee].
- **Case law (from annotations):**
 - *Deffebach v. Chapel Hill Independent School Dist.*, 650 S.W.2d 510 (Tex. App. 12 Dist. 1983): In regard to provision of V.A.T.S. Election Code art. 8.07 (repealed; but replaced) requiring voters to sign an affidavit upon failing to present to the election officials a current voter registration certificate, compliance with the provisions of such article were directory and not mandatory.
 - *Gottlieb v. Hofheinz*, 523 S.W.2d 7 (Tex. Civ. App. 1975), dismissed: Absent allegation and proof that certain votes were fraudulently induced or cast, voters in question were not disqualified merely because precinct judges did not acknowledge the affidavit pages they signed which stated that their voter registration certificates were missing or lost; provisions of former Election Code were directory.
- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **First time voters/HAVA:**
 - First time voters who register by mail must provide proof of identification. Tex. Elec. Code Ann. § 13.122 (2004).
 - **At polls/all voters:**
 - Must present voter registration certificate. Tex. Elec. Code Ann. § 63.001 (2004).

- Without voter registration certificate (and voter is on precinct list of voters), the voter may vote a regular ballot if he executes an affidavit that he does not have his voter registration certificate and shows proof of identification. Tex. Elec. Code Ann. § 63.008 (2004).
 - Without voter registration certificate (and not on the precinct list of voters), voter must execute affidavit that he is a registered voter and is eligible to vote and vote a provisional ballot. However, if the precinct worker can determine that the voter is eligible from identification presented, the voter may execute an affidavit that he does not have the certificate and vote a regular ballot. Tex. Elec. Code Ann. § 63.009 (2004).
- All accepted voters must sign signature roster. Tex. Elec. Code Ann. § 63.002 (2004).
- **First time voters or all?**
 - Looks like all voters have a requirement. First time voters who registered by mail must satisfy the requirement with proof of identity; all other voters may use either their registration certificate or proof of identity document. Tex. Elec. Code Ann. § 13.122 (2004); Tex. Elec. Code Ann. § 63.001 (2004); Tex. Elec. Code Ann. § 63.008 (2004); Tex. Elec. Code Ann. § 63.008 (2004).
- **When?**
 - For first time voters who registered by mail either at the polls or with registration. Texas Voter Registration Form, <http://www.sos.state.tx.us/elections/forms/vr17.pdf>.
 - However, all voters are required to present either proof of identity or a registration certificate at the polls.
- **What types of ID?**
 - All voters & first time voters – these documents are proof of identity:
 - (1) a driver's license or personal identification card issued to the person by the Department of Public Safety or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired;
 - (2) a form of identification containing the person's photograph that establishes the person's identity;
 - (3) a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;
 - (4) United States citizenship papers issued to the person;
 - (5) United States passport issued to the person;
 - (6) official mail addressed to the person by name from a governmental entity;

- (7) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or
- (8) any other form of identification prescribed by the secretary of state.
- Tex. Elec. Code Ann. § 63.0101 (2004).
- **State or federal elections?**
 - All elections.
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - With no voter registration certificate and no identification, the voter must vote provisionally. Tex. Elec. Code Ann. § 63.008 (2004); Tex. Elec. Code Ann. § 63.0011 (2004).
 - First time voters without identification must vote provisionally too.
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Execute affidavit that he is a registered voter and is eligible to vote. Tex. Elec. Code Ann. § 63.0011 (2004).
- **Challenge available at polls?**
 - All voters may challenge registration. Tex. Elec. Code Ann. § 16.091 (2004).
 - Poll challengers permitted at the polls, but they may only suggest that an irregularity has occurred to election officials. Tex. Elec. Code Ann. § 33.056 (2004).

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: July 6, 2005
RE: States for ID requirements chart: Utah

Utah

Summary:

Utah requires either proof of identity or proof of residence for first time voters who mailed their registration. Utah Code Ann. § 20A-3-104 (2005); Utah Code Ann. § 20A-2-202 (2005). This may be provided either at registration or at the polls. Utah Code Ann. § 20A-2-202 (2005). Without identification, the voter may vote a provisional ballot. Utah Code Ann. § 20A-3-104 (2005).

All other voters must announce their name and, if requested, their address prior to voting. *Id.* If the election official does not know the voter, he *may* request identification (proof of residence or identity) or that the voter be identified by another voter. *Id.*

There are two pending bills related to voter identification. SB 67 would require voters to present one form of identification with their name, address, and photo or two forms of identification with their name and address. SB 67, 56th Legis., 2005 Gen. Sess. (Utah 2005). The Senate and House have each passed different versions of this bill. SB 267 would allow election day registration, which may or may not affect provisional balloting (some states with election day registration do not have provisional balloting).

- **Statutes:** Utah Code Ann. § 20A-3-104 (2005) & Utah Code Ann. § 20A-2-202 (2005).
 - **Passed:**
 - § 20A-3-104 – 1953, reenacted in 1993; HAVA compliant section added in 2003.
 - § 20A-2-202 – 1953, reenacted in 1993; HAVA compliant section added in 2003.
- **Session law/recent legislation passed:** none significant to voter identification.
- **Pending legislation:**
 - SB 67, 56th Leg., 2005 Gen. Sess. (Utah 2005): voter must present one form of identification with name, current address, and photo of voter or two forms of identification with name and current address. [2/25/05 passed Senate, failed House, 3/2/05 sent back to Senate]
 - SB 267, 56th Leg., 2005 Gen. Sess. (Utah 2005): to allow election day registration. [2/24/05 second reading]
- **Case law (from annotations):** none
- **Administrative regulations:** none

- **What the law requires:**
 - **Is ID required?**
 - **For first time mail in registrants:**
 - Proof of identity or residence required. Utah Code Ann. § 20A-3-104 (2005); Utah Code Ann. § 20A-2-202 (2005).
 - **At polls/all voters:**
 - Must announce his/her name and, if requested, his/her address. If the election official does not know the voter and has reason to doubt the voter's identity, the official may request identification or have the voter identified by another registered voter. Utah Code Ann. § 20A-3-104 (2005).
 - **First time voters or all?**
 - Identification is only *required* of first time voters. It may be requested of all voters. Utah Code Ann. § 20A-3-104 (2005).
 - **When?**
 - Either at registration or at the polls. Utah Code Ann. § 20A-2-202 (2005).
 - **What types of ID?**
 - Either proof of identification or proof of residence satisfies requirement. Utah Code Ann. § 20A-2-202 (2005).
 - Proof of identity: photo identification that establishes identity (such as driver's license or identification card). Utah Code Ann. § 20A-1-102 (2005).
 - Proof of residence: some official document or form that establishes a person's residence (such as driver's license or utility bill). Utah Code Ann. § 20A-1-102 (2005).
 - Utah Voter Information Pamphlet lists driver's license, state identification card, passport, current utility bill, government check, paycheck, and other document that shows name and current address as acceptable identification. Utah Voter Information Pamphlet, 74, http://elections.utah.gov/Voter%20Information%20Pamphlet_web.pdf.
 - **State or federal elections?**
 - Both. Utah Code Ann. § 20A-3-104 (2005).
 - **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional Ballot. Utah Code Ann. § 20A-3-104 (2005).
 - **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - None. Utah Code Ann. § 20A-3-105.5 (2005).
 - **Challenge available at polls?**
 - Yes. Utah Code Ann. § 20A-3-202 (2005).

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: July 6, 2005
RE: States for ID requirements chart: Vermont

Vermont

Summary:

In Vermont, voters who are voting for the first time and registered by mail must present identification prior to voting. Vt. Stat. Ann. tit. 17, § 2563 (2004). This identification may be presented at any time prior to voting, including at registration. *Id.* The types of identification permitted are the same as the types permitted under HAVA. *Id.* Without identification, a voter may vote a provisional ballot. *Id.* This requires completing an attestation, and the voter may only vote for candidates for federal office. Vt. Stat. Ann. tit. 17, § 2556 (2004).

All voters must state their name and, if requested, their address prior to voting. Vt. Stat. Ann. tit. 17, § 2563 (2004). No identification is required of voters besides the requirement for first time voters who registered by mail. *Id.*

There are no pending bills or recent bills passed concerning voter identification.

- **Statutes:** Vt. Stat. Ann. tit. 17, § 2563 (2004).
 - **Passed:**
 - § 2563 – 2003 identification requirement for first time voters added
- **Session law/recent legislation passed:** none
- **Pending legislation:**
 - none
- **Case law (from annotations):** none
- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **First time voters who registered by mail:**
 - Identification required for first time voters who registered by mail. Vt. Stat. Ann. tit. 17, § 2563 (2004).
 - **At polls/all voters:**
 - State name and, if requested, address. No identification required. Vt. Stat. Ann. tit. 17, § 2563 (2004).
 - **First time voters or all?**
 - First time voters who registered by mail only. Vt. Stat. Ann. tit. 17, § 2563 (2004).
 - **When?**
 - Either registration, some time prior to the election, or at the polls. Vt. Stat. Ann. tit. 17, § 2563 (2004).

- **What types of ID?**
 - (1) A valid photo identification; (2) copy of a current utility bill; (3) copy of a current bank statement; (4) or copy of a government check, paycheck, or any other government document that shows the current name and address of the voter. Vt. Stat. Ann. tit. 17, § 2563 (2004).
- **State or federal elections?**
 - Seems to be all elections. However, when a voter votes provisionally, he may only vote for federal candidates. Vt. Stat. Ann. tit. 17, § 2563 (2004); Vt. Stat. Ann. tit. 17, § 2556 (2004).
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot. Vt. Stat. Ann. tit. 17, § 2563 (2004).
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Affidavit & vote for federal candidates only. Vt. Stat. Ann. tit. 17, § 2556 (2004).
- **Challenge available at polls?**
 - Challenge permitted by challengers appointed by a political party, candidate, or issue group. Vt. Stat. Ann. tit. 17, § 2564 (2004).

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: July 7, 2005
RE: States for ID requirements chart: Washington

Washington

Summary:

Recently, Washington passed two bills concerning voter identification. 2005 Wash. Laws 243; 2005 Wash. Laws 246. 2005 Wash. Laws 243 is effective July 24, 2005, and 2005 Wash. Laws 246 is effective January 1, 2006. These new laws require all voters to present identification at the polls in the form of a photo identification, bank statement, paycheck, government check, or other government document. 2005 Wash. Laws 243. They also require first time voters who register by mail (regardless of voting method) to provide identification (forms similar to above list) prior to voting at the polls. 2005 Wash. Laws 246.

Until the new laws take effect, only first time voters who register by mail are required to present identification. All other voters must merely state their name and sign the precinct record. Wash. Rev. Code § 29A.44.201 (2005); Wash. Admin. Code § 434-253-040 (2005).

There are several bills pending in the legislature. All of these bills require photo identification.

• **Statutes:**

- 2005 Wash. Laws 243 – new voter identification law for all voters at the polls (effective 7/24/05)
- 2005 Wash. Laws 246 – voter identification law applying to first time voters who registered by mail only (effective 1/1/06)
- Wash. Rev. Code § 29A.44.201 (2005) – current law until 7/24/05
- **Passed:**
 - § 29A.44.201 – 2004
 - 2005 Wash. Laws 243 (SB 5499) – 2005
 - 2005 Wash. Laws 246 (SB 5743) – 2005

• **Session law/recent legislation passed:**

- 2005 Wash. Laws 243, sec. 7: all voters required to present identification at the polls (forms: voter registration card, any current and valid government-issued photo identification, driver's license, state identification card, passport, tribal identification card, military ID card, or a copy of a current utility bill, bank statement, paycheck, government check or other government document) [signed by governor 5/3/05, effective 7/24/05]
 - SB 5499, 59th Leg., 2005 Reg. Sess. (Wash. 2005)

- 2005 Wash. Laws 246, sec. 7: any voter who registered by mail and indicated that he did not have a social security number, driver's license, or state identification card must provide identification prior to voting (this requirement includes voters voting by mail and at the polls) [signed by governor 5/3/05, effective 1/1/06]
 - SB 5743, 59th Leg., 2005 Reg. Sess. (Wash. 2005)
- **Pending legislation:**
 - HB 2158, 59th Leg., 2005 Reg. Sess. (Wash. 2005): require identification containing photo and signature at polls. [2/28/05 committee hearing]
 - SB 6075, 59th Leg., 2005 Reg. Sess. (Wash. 2005): require identification containing photo and signature at polls. [3/3/05 introduced, referred to committee]
 - HB 2226, 59th Leg., 2005 Reg. Sess. (Wash. 2005): require identification containing photo and signature at polls (only driver's license, state identification card, or passport acceptable). [2/24/05 introduced, referred to committee]
 - SB 5400, 59th Leg., 2005 Reg. Sess. (Wash. 2005): require voters to show photo identification and registration verification. [1/24/05 introduced, referred to committee]
- **Case law (from annotations):** none
- **Administrative regulations:**
 - Wash. Admin. Code § 434-253-040 (2005): verification of voter's name.
- **What the law requires:**
 - **Is ID required?**
 - **First time voters who registered by mail:**
 - Now: Must provide identification prior to voting regardless of whether voter is voting at the polls or by mail. 2005 Wash. Laws 246, sec. 7 (effective 1/1/06).
 - Prior to new law: HAVA only.
 - **At polls - all voters:**
 - Now: All voters must provide identification prior to signing poll book. 2005 Wash. Laws 243, sec. 7.
 - Prior to new law: Announce name and sign record only. Wash. Rev. Code § 29A.44.201 (2005); Wash. Admin. Code § 434-253-040 (2005).
 - **First time voters or all?**
 - All voters have a similar identification requirement. 2005 Wash. Laws 243, sec. 7; 2005 Wash. Laws 246, sec. 7.
 - **When?**
 - At polls. 2005 Wash. Laws 243, sec. 7; 2005 Wash. Laws 246, sec. 7.
 - **What types of ID? [requirements for all voters and first time voters are similar]**
 - **At polls – all voters:**
 - Current and valid photo identification, including: voter registration card, any current and valid government-issued

- photo identification, driver's license, state identification card, passport, tribal identification card, and military ID card.
- Other identification, including: copy of current utility bill, bank statement, government check, paycheck, and any other government document.
- 2005 Wash. Laws 243, sec. 7.
- **First time voters who registered by mail:**
 - (a) Valid photo identification;
 - (b) A valid enrollment card of a federally recognized Indian tribe in Washington state;
 - (c) A copy of a current utility bill;
 - (d) A current bank statement;
 - (e) A copy of a current government check;
 - (f) A copy of a current paycheck; or
 - (g) A government document that shows both the name and address of the voter.
 - 2005 Wash. Laws 246, sec. 7.
- **State or federal elections?**
 - Both. 2005 Wash. Laws 243, sec. 7; 2005 Wash. Laws 246, sec. 7.
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional Ballot. 2005 Wash. Laws 243, sec. 7; 2005 Wash. Laws 246, sec. 7.
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Sign affidavit. 2005 Wash. Laws 243, sec. 6.
- **Challenge available at polls?**
 - No, only election officials may challenge at the polls. Wash. Rev. Code § 29A.44.201 (2005).
- **Miscellaneous:**
 - Has vote by mail for precincts with less than 200 active registered voters, and Washington recently passed a law permitting vote by mail for any precinct with permission of the county. Wash. Rev. Code § 29A.48.010 (2005); 2005 Wash. Laws 241.

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MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: July 7, 2005
RE: States for ID requirements chart: West Virginia

West Virginia

Summary:

The identification requirements under West Virginia law are the same as required under HAVA. W. Va. Code § 3-2-10 (2005). These requirements apply to local, state, and federal elections. Without identification, a voter is permitted to vote a provisional ballot. *Id.*

While West Virginia allows voters to register by mail with only the HAVA requirements for identification, voters who register in person are required to present identification and proof of age. W. Va. Code § 3-2-7 (b) (2005).

No recent laws passed or bills pending.

- **Statutes:** W. Va. Code § 3-2-10 (2005); W. Va. Code § 3-1-34 (2005).
 - **Passed:**
 - § 3-2-10 – 2003
 - § 3-1-34 – 1981
- **Session law/recent legislation passed:** none
- **Pending legislation:**
 - none
- **Case law (from annotations):**
 - *State ex rel. Bumgardner v. Mills*, 53 S.E.2d 416 (W. Va. 1949): The purpose of the legislature in enacting the provisions of this section (§ 3-1-34) requiring the signature of the clerk on the back of the ballot was to guard against and prevent fraud in an election.
- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **For first time voters who registered by mail:**
 - Any voter who registers by mail who has not yet voted in the State (if statewide system set up) or in the county (prior to statewide system) must provide identification. W. Va. Code § 3-2-10 (g) (2005).
 - **Registration:**
 - For voters who register in person, they are required to present valid identification and proof of age. W. Va. Code § 3-2-7 (b) (2005).
 - **At polls/all voters:**
 - State name and sign poll book. W. Va. Code § 3-1-34 (a) (2005).

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- **First time voters or all?**
 - Only first time voters who register by mail who have not voted in the State before. W. Va. Code § 3-2-10 (g) (2005).
- **When?**
 - Anytime prior to voting. W. Va. Code § 3-2-10 (g) & (i) (2005).
- **What types of ID?**
 - A current and valid photo identification; or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. W. Va. Code § 3-2-10 (g) (2005).
- **State or federal elections?**
 - Both. W. Va. Code § 3-2-10 (g) (2005).
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot. W. Va. Code § 3-2-10 (g) & (h) (2005).
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Looks like none. W. Va. Code § 3-1-41 (2005).
- **Challenge available at polls?**
 - Yes. W. Va. Code § 3-1-34 (d) (2005); W. Va. Code § 3-1-41 (2005).

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: July 7, 2005
RE: States for ID requirements chart: Wisconsin

Wisconsin

Summary:

Wisconsin does not require identification beyond HAVA for voters who registered by mail and are voting for the first time in a national election. Wis. Stat. § 6.36 (2)(c)(2) (2004). It also only requires identification in national elections, not for state and local elections. *Id.* The identification forms are the same as permitted under HAVA. Wis. Stat. § 5.02 (6m) (2004). Without identification, a voter may vote a provisional ballot; the provisional ballot only counts if the voter brings identification to the clerk's office by 4 p.m. the day after election day. Wis. Stat. § 6.97 (2004); Wisconsin State Elections Board, Voter Information: Frequently Asked Questions, http://elections.state.wi.us/faq_detail.asp?faqid=142&fid=27&fname=&linkid=.

Wisconsin has in-person late registration and election day registration. Wis. Stat. § 6.29 (2004). This requires proof of residence (many forms acceptable) or an affidavit as to the residence of the voter by another registered voter. *Id.* All other voters must only provide their name and address prior to voting. Wis. Stat. § 6.79 (2)(c), (3) (2004).

There are several bills pending which would require photo identification of all voters prior to voting. One of these bills passed both houses and was vetoed by the governor in May. Another similar bill has passed both houses recently.

- **Statutes:** Wis. Stat. § 6.79 (2004); Wis. Stat. § 6.36 (2004)
 - **Passed:**
 - § 6.36 – 2003
 - § 6.79 – since at least 1989, probably since 1965
- **Session law/recent legislation passed:** none
- **Pending legislation:**
 - AB 63, 97th Legis. Sess., Reg. Sess. (Wis. 2005): require all voters to show a WI driver's license, state identification card, or military identification card. [5/2/05 vetoed, 5/3/05 failed to override veto]
 - SB 42, 97th Legis. Sess., Reg. Sess. (Wis. 2005): require all voters to show a WI driver's license, state identification card, or military identification card; provisional ballot to those without identification; identification cards free. [6/15/05 passed Senate, 6/23/05 passed Assembly]
 - AJR 36: requires photo identification to vote at the polls. [5/3/05 introduced, 5/31/05 to committee]
- **Case law (from annotations):**
 - *State ex rel. Hopkins v. Olin* 23 Wis. 309 (Wis. 1868): Proof, by residents of a town or village, that no such persons as some whose names are on the poll

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list as having voted at the election, were known by the witnesses to have resided in such town or village, will authorize the jury to find that such names are fictitious, or belong to persons who were not legal voters in such town or district, unless other proof to the contrary is given.

- *State v. Trask* 115 N.W. 823 (Wis. 1908): The provisions of St.1898, §§ 23, 61 that one whose name was not on the registry as completed could not vote except on presenting an affidavit showing certain facts as to his qualification, was not unreasonable or inconsistent with his right to vote, as secured by the Constitution.
- **Administrative regulations:** none
- **What the law requires:**
 - **Is ID required?**
 - **For first time voters who registered by mail:**
 - Voters who registered by mail and have not yet voted in an election for national office. Wis. Stat. § 6.36 (2)(c)(2) (2004).
 - **At polls/all voters:**
 - All other voters must provide their name and address prior to voting. Wis. Stat. § 6.79 (3) (2004).
 - **Registration:**
 - Election day or in-person late registration: requires proof of residence – see “miscellaneous” below. Wis. Stat. § 6.29 (2004).
 - **First time voters or all?**
 - Just first time voters and just federal elections. Wis. Stat. § 6.36 (2)(c)(2) (2004).
 - Currently, the requirement applies to voters voting for the first time in the county; on Jan. 1, the requirement will apply to voters voting for the first time in the State. Wis. Stat. § 6.36 (2)(c)(2) (2004).
 - **When?**
 - At polls. Wis. Stat. § 6.36 (2)(c)(2) (2004).
 - **What types of ID?**
 - Current and valid photo identification or a copy of a utility bill, bank statement, paycheck, or a check or other document issued by a unit of government that shows the current name and address of the elector. Wis. Stat. § 5.02 (6m) (2004).
 - **State or federal elections?**
 - “Elections for national office.” Wis. Stat. § 6.36 (2)(c)(2) (2004).
 - **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot. Wis. Stat. § 6.97 (2004).
 - **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Provide identification in the municipal clerk’s office by 4 p.m. the day after election day. Wisconsin State Elections Board, Voter Information: Frequently Asked Questions, http://elections.state.wi.us/faq_detail.asp?faqid=142&fid=27&fname=&linkid=.

- **Challenge available at polls?**
 - Yes. Wis. Stat. § 6.925 (2004); Wis. Admin. Code § 9.02 (2005).
- **Miscellaneous:**
 - Registration not required in all municipalities.
 - Has late registration and election day registration, which requires identification. Wis. Stat. § 6.29 (2004).
 - Affidavit that voter is qualified to the best of his knowledge. Wis. Stat. § 6.55 (2004).
 - Identification required:
 - Proof of residence OR affidavit as to the voter's residence made by another registered voter and proof of residence for that voter. Wis. Stat. § 6.29 (2004).
 - Proof of residence: must include voter's name and current residence address (WI driver's license, state identification card, other identification card issued by WI or employer, credit card, library card, check cashing card, tax bill, lease, tuition bill, student identification card, pilot's license, or utility bill). Wis. Stat. § 6.55 (7) (2004).

MEMORANDUM

TO: Sara Sampson
FROM: Jamie LaPlante
DATE: July 8, 2005
RE: States for ID requirements chart: Wyoming

Wyoming

Summary:

Wyoming does not require identification beyond HAVA for voters who registered by mail and are voting for the first time in a Wyoming federal election. Wyo. Stat. Ann. § 22-3-118 (b) (2005). It also only requires identification in federal elections, not for state and local elections. *Id.* The identification forms are the same as permitted under HAVA. *Id.* Without identification, a voter may sign an affidavit and vote a provisional ballot; the provisional ballot only counts if the voter brings identification to the clerk's office the day after election day. Wyo. Stat. Ann. § 22-3-118 (2005); Wyo. Stat. Ann. § 22-15-105 (2005).

There are no pending bills concerning voter identification. However, Wyoming recently passed a bill adding tribal identifications to the list of acceptable identifications. 2005 Wyo. Sess. Laws 130.

- **Statutes:** Wyo. Stat. Ann. § 22-3-118 (2005).
 - **Passed:**
 - § 22-3-118 – 2004
- **Session law/recent legislation passed:**
 - 2005 Wyo. Sess. Laws 130 (HB 325): adds tribal identification as an acceptable identification. [2/25/05 signed by governor – effective 7/1/05]
- **Pending legislation:** none
- **Case law (from annotations):** none
- **Administrative regulations:** Secretary of State Regulation Issued October 1, 2004.
- **What the law requires:**
 - **Is ID required?**
 - **First time voters who register by mail:**
 - First time voters who register by mail and have not previously voted in a Wyoming federal election are required to provide identification prior to voting. Wyo. Stat. Ann. § 22-3-118 (b) (2005).
 - **First time voters or all?**
 - Just first time voters. Wyo. Stat. Ann. § 22-3-118 (2005).
 - **When?**
 - Prior to voting – anytime. Wyo. Stat. Ann. § 22-3-118 (2005).
 - **What types of ID?**
 - Current & valid photo identification, utility bill, bank statement, paycheck, government check, or other government document with the voter's name and address. Wyo. Stat. Ann. § 22-3-118 (b) (2005).

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- The Secretary of State promulgated guidelines further defining identification for the purposes of voting or registration and added these specific forms:
 - Passport
 - Driver's license or state identification card (any state)
 - Identification card issued by Federal Government
 - Military identification card
 - Certificate of citizenship
 - Certificate of naturalization
 - Military draft record
 - Voter registration card from another State or County
 - Certificate of birth abroad issued by Department of State
 - Birth certificate
 - Any other form of identification issued by official agency of the U.S. or a State
 - Secretary of State Regulation Issued October 1, 2004.
- **State or federal elections?**
 - Federal only. Wyo. Stat. Ann. § 22-3-118 (b) (2005).
- **Consequences of having no ID (provisional ballot v. regular ballot?)**
 - Provisional ballot. Wyo. Stat. Ann. § 22-3-118 (2005).
- **Consequences of having no ID (affidavit, bring ID later, none, recite DOB & address)**
 - Affidavit. Wyo. Stat. Ann. § 22-15-105 (2005).

AND

 - Bring identification the day after the election in order for vote to count. Wyo. Stat. Ann. § 22-3-118 (2005); Wyo. Stat. Ann. § 22-15-105 (2005).
- **Challenge available at polls?**
 - Not by poll watchers or other voters. Only election judges may challenge. Wyo. Stat. Ann. § 22-15-101 (2005); Wyo. Stat. Ann. § 22-15-105 (2005); Wyo. Stat. Ann. § 22-15-109 (2005).

Jeannie Layson /EAC/GOV
03/30/2007 11:57 AM

To tim.vercellotti@rutgers.edu
cc john.weingart@rutgers.edu
bcc
Subject press release

Tim,

Per our conversation, the press release is attached. We will also post your entire report on our website.



This go live in about 45 min. VoterID release 3-30-07.doc Again, please don't hesitate to call if you have any questions, and I will keep in the loop regarding media inquiries.

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

030306



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

EAC to Launch Comprehensive Study of Voter ID Laws

For Immediate Release
March 30, 2007

Contact: Jeannie Layson
Bryan Whitener
(202) 566-3100

WASHINGTON – The U.S. Election Assistance Commission (EAC) has voted unanimously to launch a comprehensive study focused on voter identification laws after concluding that initial research it received in a report, which focused on only one election cycle, was not sufficient to draw any conclusions. The Commission declined to adopt the report, but is releasing all of the data to the public.

The report and the research, conducted by Rutgers, the State University of New Jersey, through its Eagleton Institute of Politics, are available at www.eac.gov. The Commission's statement regarding its decision is attached.

"After careful consideration of the initial research, the Commission decided this important issue deserves a more in-depth research approach, and that it should be examined beyond only one election cycle," said EAC Chair Donetta Davidson. "The Commission and our contractor agree that the research conducted for EAC raises more questions than provides answers."

EAC's strategy for moving forward is based upon an examination of the initial research and the testimony and discussion about this research project at the Commission's February 8, 2007 public meeting. For more information about the public meeting, including the agenda, transcript, and testimony go to http://www.eac.gov/Public_Meeting_020807.asp.

EAC's future research on this topic will be expanded to include more than one federal election, environmental and political factors, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004. EAC's comprehensive research approach will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation. EAC will use some of the information collected by the contractor as well as additional data from the states to develop this baseline.

- In 2007, convene a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification.
- Study how voter identification provisions that have been in place for two or more federal elections have impacted voter turnout, voter registration figures, and fraud.
- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements.

EAC is an independent bipartisan commission created by the Help America Vote Act of 2002 (HAVA). It is charged with administering payments to states and developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines, accrediting voting system test laboratories and certifying voting equipment and serving as a national clearinghouse and resource of information regarding election administration. The four EAC commissioners are Donetta Davidson, chair; Rosemary Rodriguez, Caroline Hunter and Gracia Hillman.

#

EAC Statement on Study of Voter Identification Requirements

Background

The Help America Vote Act of 2002 (HAVA) authorizes the United States Election Assistance Commission (EAC) to conduct periodic studies of election administration issues. In May 2005, EAC contracted with Rutgers, the State University of New Jersey through its Eagleton Institute of Politics (“Contractor”) to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches.

The Contractor performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. Drawing on its nationwide review and legal analysis of state statutes and regulations for voter identification, the contractor compared states with similar voter identification requirements and drew conclusions based on comparing turnout rates among states for one election – November 2004. For example, the turnout rate in 2004 in states that required the voter to provide a photo identification document¹ was compared to the turnout rate in 2004 in states with a requirement that voters give his or her name in order to receive a ballot. Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates² and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau.³

The Contractor presented testimony summarizing its findings from this statistical and data analysis at the February 8, 2007 public meeting of the U.S. Election Assistance Commission. The Contractor’s testimony, its summary of voter identification requirements by State, its summary of court decisions and literature on voter identification and related issues, an annotated bibliography on voter identification issues and its summary of state statutes and regulations affecting voter identification are attached to this report and can also be found on EAC’s website, www.eac.gov.

EAC Declines to Adopt Draft Report

EAC finds the Contractor’s summary of States’ voter identification requirements and its summary of state laws, statutes, regulations and litigation surrounding the implementation of voter identification requirements, to be a first step in the Commission’s efforts to study the possible impact of voter identification requirements.

¹ In 2004, three of the states that authorized election officials to request photo identification allowed voters to provide a non-photo ID and still vote a regular ballot and two others permitted voters who lacked photo ID to vote a regular ballot by swearing and affidavit.

² The July 2004 estimates for voting age population were provided by the U.S. Census Bureau. These data did not differentiate between citizens and non-citizens; because these numbers include non-citizens, the Contractor applied the percentage of citizens included in voting age population statistics in 2000 to the U.S. Census Bureau estimated voting age population in 2004. Thus, 2004 estimates of voting age population include persons who are not registered to vote.

³ The Current Population Survey is based on reports from self-described registered voters who also describe themselves as U.S. citizens.

However, EAC has concerns regarding the data, analysis, and statistical methodology the Contractor used to analyze voter identification requirements to determine if these laws have an impact on turnout rates. The study only focused on one federal election. An analysis using averaged county-level turnout data from the U.S. Census showed no statistically significant correlations. A second analysis using a data set based upon the Current Population Survey (which was self-reported and showed a significantly higher turnout rate than other conventional data) was conducted that produced some evidence of correlation between voter identification requirements and turnout. The initial categorization of voter identification requirements included classifications that, actually, require no identification documentation, such as "state your name." The research methodology and the statistical analysis used by the Contractor were questioned by an EAC review group comprised of social scientists and statisticians. The Contractor and the EAC agree that the report raises more questions than provides answers and both agree the study should have covered more than one federal election.⁴ Thus, EAC will not adopt the Contractor's study and will not issue an EAC report based upon this study. All of the material provided by the Contractor is attached.

Further EAC Study on Voter Identification Requirements

EAC will engage in a longer-term, more systematic review of voter identification requirements. Additional study on the topic will include more than one Federal election cycle, additional environmental and political factors that effect voter participation and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004.

EAC will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states' requirements which require a voter to state his or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identify.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.
- In 2007, convene a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification. Topics to be discussed include methodology, specific issues to be covered in the study and timelines for completing an EAC study on voter identification.
- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures, and fraud. Included in this study will be an examination of the relationship between voter turnout and other factors such as race and gender. Study the effects of voter identification provisions, or the lack thereof, on early, absentee and vote-by-mail voting.

⁴ See Transcript of EAC Public Meeting, February 8, 2007, page 109.

- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements. Included in the case studies will be detail on the policies and practices used to educate and inform poll workers and voters.

Jeannie Layson /EAC/GOV
03/29/2007 03:14 PM

To Rosemary E. Rodriguez/EAC/GOV@EAC
cc
bcc

Subject I've been sending stuff to your personal email address!

Sorry about that! Here's what I sent out earlier:

Commissioners,

Based upon the revised tally vote language, I have made edits to the press release and to the Q&A. Please let me know if you have any edits. I plan to release this tomorrow if the tally vote is completed by then. Also, please pay special attention to the following answer I have composed, which is in the Q&A document. I will notify you before issuing the press release.

Q: What are your specific objections/concerns with the methodologies utilized by Eagleton?

A: First of all, we agree with the contractor that we should examine more than one federal election. Regarding the methodologies, the contractor conducted two analyses that had different outcomes. The first analysis showed no statistically significant correlations. The second analysis, based on statistics from the Current Population Survey, showed some evidence of a correlation. Also, the categorization of voter identification requirements included classifications that do not require identification documentation, such as "state your name." The bottom line is that the research produced more questions than answers, and that's why EAC is expanding its efforts to examine this important issue.



EAGLETONQ&A.doc VoterID release 3-30-07.doc

Jeannie Layson
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030312

OVERALL MESSAGE

Voter identification at the polling place is an important issue that affects voters in jurisdictions throughout the country. Understanding that this issue deserves a more in-depth approach, EAC has decided to move forward with a thorough, multi-year research project that will examine everything from turnout to voter education.

The preliminary research focused exclusively on the 2004 election, was insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors including, the many changes in state laws and regulations that have occurred since the 2004.

Q&A

Q: Why not release the draft fraud report, too?

A: EAC issued a final Voting Fraud and Voter Intimidation Report in December 2006, which included recommendations adopted by the Commission to conduct a comprehensive assessment of all claims, charges and prosecutions of voting crimes.

In the case of the voter ID report, the Commission chose not to adopt a final report because it was determined that there was insufficient data to provide meaningful conclusions.

Q: You cited concerns with the contractor's methodology and analysis. Didn't your contract with Eagleton include specific language regarding these issues?

A: Yes, but in retrospect, perhaps we could have done a better job articulating how we wanted this research to be conducted.

Q: What are your specific objections/concerns with the methodologies utilized by Eagleton?

A: First of all, we agree with the contractor that we should examine more than one federal election. Regarding the methodologies, the contractor conducted two analyses that had different outcomes. The first analysis showed no statistically significant correlations. The second analysis, based on statistics from the Current Population Survey, showed some evidence of a correlation. Also, the categorization of voter identification requirements included classifications that do not require identification documentation, such as "state your name." The bottom line is that the research produced more questions than answers, and that's why EAC is expanding its efforts to examine this important issue.

Q: During the course of the project, did you see draft reports? If so, why didn't these concerns get addressed at that time?

A: We did receive progress reports, and when we identified areas of concern, we discussed it with the contractor. It was because of these concerns that EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

Q: During the course of the contract, did you ever express these concerns with Eagleton?

A: Yes, and as a result of these conversations, EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

Q: You spent more than \$500,000 for a report the Commission doesn't think should be adopted – so basically you're flushing a lot of money down the drain. Is this a wise use of taxpayer dollars?

A: There is value in what Eagleton provided, and this included work they did for us regarding provisional voting. As a result of the research on provisional voting, EAC issued a set of best practices last fall. The voter ID data will help provide a baseline for how to move forward. And even though their research raised many questions, contemplating the answers to those questions has informed us on how to move forward.

Q: If you were not satisfied with the final product, why did you pay for it?

A: We adhered to the terms of the contract.

Q: EAC received this data in June of last year. What has taken so long to bring it to a conclusion?

A: This is an important issue, one that deserves careful deliberation and a thorough approach. Yes, we like to get things done quickly, but it is more important to take the time to get things right.

TRANSITION PHRASES

To stay on message and avoid being dragged into discussions about anything other than the action taken, employ the following phrases and transition back to the overall message.

Overall Message

Voter identification at the polling place is an important issue that affects voters in jurisdictions throughout the country. Understanding that this issue deserves a more in-depth approach, EAC has decided to move forward with a thorough, multi-year research project that will examine everything from turnout to voter education.

The preliminary research focused exclusively on the 2004 election, was insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors including, the many changes in state laws and regulations that have occurred since the 2004.

Bridge/Transition Phrases

- What's really important here...
- We are focused on moving forward, not going back...
- The bottom line is...
- The point is...
- We have a responsibility to...
- I'll let others speak to that, but let me tell you what's important to EAC...
- Everyone agrees that...



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

EAC to Launch Comprehensive Study of Voter ID Laws

For Immediate Release
March 30, 2007

Contact: Jeannie Layson
Bryan Whitener
(202) 566-3100

WASHINGTON – The U.S. Election Assistance Commission (EAC) has voted unanimously to launch a comprehensive study focused on voter identification laws after concluding that initial research focusing on only one election cycle was not sufficient to draw any conclusions. The Commission declined to adopt the report, but is releasing all of the data to the public. The information is available at www.eac.gov, and the Commission's statement regarding its decision is attached.

"After careful consideration of the initial research, the Commission decided this important issue deserves a more in-depth research approach, and that it should be examined beyond only one election cycle," said EAC Chair Donetta Davidson. "The Commission and our contractor agree that the research raises more questions than provides answers."

EAC's strategy for moving forward is based upon an examination of the initial research and the testimony and discussion about this research project at the Commission's February 8, 2007 public meeting. For more information about the public meeting, including the agenda, transcript, and testimony go to http://www.eac.gov/Public_Meeting_020807.asp.

EAC's future research on this topic will be expanded to include more than one federal election, environmental and political factors, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004. EAC's comprehensive research approach will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.
- In 2007, convene a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification.
- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures, and fraud.

- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements.

EAC is an independent bipartisan commission created by the Help America Vote Act of 2002 (HAVA). It is charged with administering payments to states and developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines, accrediting voting system test laboratories and certifying voting equipment and serving as a national clearinghouse and resource of information regarding election administration. The four EAC commissioners are Donetta Davidson, chair; Rosemary Rodriguez, Caroline Hunter and Gracia Hillman.

###

EAC Statement on Study of Voter Identification Requirements

Background

The Help America Vote Act of 2002 (HAVA) authorizes the United States Election Assistance Commission (EAC) to conduct periodic studies of election administration issues. In May 2005, EAC contracted with Rutgers, the State University of New Jersey through its Eagleton Institute of Politics (“Contractor”) to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches.

The Contractor performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. Drawing on its nationwide review and legal analysis of state statutes and regulations for voter identification, the contractor compared states with similar voter identification requirements and drew conclusions based on comparing turnout rates among states for one election – November 2004. For example, the turnout rate in 2004 in states that required the voter to provide a photo identification document¹ was compared to the turnout rate in 2004 in states with a requirement that voters give his or her name in order to receive a ballot. Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates² and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau.³

The Contractor presented testimony summarizing its findings from this statistical and data analysis at the February 8, 2007 public meeting of the U.S. Election Assistance Commission. The Contractor’s testimony, its summary of voter identification requirements by State, its summary of court decisions and literature on voter identification and related issues, an annotated bibliography on voter identification issues and its summary of state statutes and regulations affecting voter identification are attached to this report and can also be found on EAC’s website, www.eac.gov.

EAC Declines to Adopt Draft Report

EAC finds the Contractor’s summary of States’ voter identification requirements and its summary of state laws, statutes, regulations and litigation surrounding the implementation of voter identification requirements, to be a first step in the Commission’s efforts to study the possible impact of voter identification requirements.

¹ In 2004, three of the states that authorized election officials to request photo identification allowed voters to provide a non-photo ID and still vote a regular ballot and two others permitted voters who lacked photo ID to vote a regular ballot by swearing and affidavit.

² The July 2004 estimates for voting age population were provided by the U.S. Census Bureau. These data did not differentiate between citizens and non-citizens; because these numbers include non-citizens, the Contractor applied the percentage of citizens included in voting age population statistics in 2000 to the U.S. Census Bureau estimated voting age population in 2004. Thus, 2004 estimates of voting age population include persons who are not registered to vote.

³ The Current Population Survey is based on reports from self-described registered voters who also describe themselves as U.S. citizens.

However, EAC has concerns regarding the data, analysis, and statistical methodology the Contractor used to analyze voter identification requirements to determine if these laws have an impact on turnout rates. The study only focused on one federal election. An analysis using averaged county-level turnout data from the U.S. Census showed no statistically significant correlations. A second analysis using a data set based upon the Current Population Survey (which was self-reported and showed a significantly higher turnout rate than other conventional data) was conducted that produced some evidence of correlation between voter identification requirements and turnout. The initial categorization of voter identification requirements included classifications that, actually, require no identification documentation, such as "state your name." The research methodology and the statistical analysis used by the Contractor were questioned by an EAC review group comprised of social scientists and statisticians. The Contractor and the EAC agree that the report raises more questions than provides answers and both agree the study should have covered more than one federal election.⁴ Thus, EAC will not adopt the Contractor's study and will not issue an EAC report based upon this study. All of the material provided by the Contractor is attached.

Further EAC Study on Voter Identification Requirements

EAC will engage in a longer-term, more systematic review of voter identification requirements. Additional study on the topic will include more than one Federal election cycle, additional environmental and political factors that effect voter participation, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004.

EAC will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states' requirements which require a voter to state his or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identify.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.
- In 2007, convene a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification. Topics to be discussed include methodology, specific issues to be covered in the study and timelines for completing an EAC study on voter identification.
- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures, and fraud. Included in this study will be an examination of the relationship between voter turnout and other factors such as race and gender. Study the effects of voter identification provisions, or the lack thereof, on early, absentee and vote-by-mail voting.

⁴ See Transcript of EAC Public Meeting, February 8, 2007, page 109.

- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements. Included in the case studies will be detail on the policies and practices used to educate and inform poll workers and voters.

AT

Jeannie Layson /EAC/GOV
03/29/2007 02:31 PM

To PFessler@npr.org
cc
bcc
Subject your questions

Pam,

Per your question, Congressman Hinchey requested that the following be sent to the House Appropriations Committee, Subcommittee on Financial Services and General Government: EAC's assessment report on CIBER, Inc., the draft report submitted to EAC regarding voter fraud and intimidation, and the draft report submitted to EAC concerning voter identification. The assessment report on CIBER, Inc. and the final culmination of the voter fraud and intimidation research - Election Crimes: An Initial Review and Recommendations for Further Study – are available at www.eac.gov, but we also provided hard copies to the committee.

Regarding the voter ID research project, as I mentioned at our Feb. public meeting EAC Chair Donetta Davidson requested that staff review the initial research provided by Eagleton and produce a final report, which would include recommendations for further study on this subject. However, we provided the Committee the initial information Eagleton provided to EAC.

Regarding the voter fraud and intimidation research, we provided the Committee EAC's final report and all of the information provided by the consultants. At a May 2006 public meeting of our Standards Board and Board of Advisors, the EAC project manager for this research presented a staff update on the project. Go here to view the public meeting agenda, page 3. The update the project manager gave at this public meeting has been made available to anyone who asked for it, and I've attached it for your review. The final culmination of this project can be found here. Go to page 24, where you will find links to attachments, which provide the data reviewed by the consultants. The commissioners adopted this report, including four recommendations for further study at a public meeting in Dec. 2006. The final report includes all of the recommendations put forth by the consultants as well the research they provided. (Consultants provided 16 suggestions for further study. See pages 16-22.)

Please let me know if you would like to speak with EAC Chair Davidson if you need sound or something for attribution. She'd also be glad to discuss our approach for these research projects. Again, my direct number is 202-566-3103 or you can reach me on my cell after 5:30 at 202-243-9476.



VF-VI Study Status 5-17-06.pdf
Jeannie Layson
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030321



U.S. ELECTION ASSISTANCE COMMISSION

**Status Report on the
Voting Fraud-Voter Intimidation Research
Project**

May 17, 2006

030322

INTRODUCTION

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.

FOCUS OF CURRENT RESEARCH

In September 2005, the Commission hired two consultants with expertise in this subject matter, Job Serebrov and Tova Wang, to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

As of the date of this report, the consultants have drafted a definition of election fraud, reviewed relevant literature and reports, interviewed persons from government and private sectors with subject matter expertise, analyzed news reports of alleged election fraud, reviewed case law, and established a project working group.

DEFINITION OF ELECTION FRAUD

The consultants drafted a definition of election fraud that includes numerous aspects of voting fraud (including voter intimidation, which is considered a subset of voting fraud) and voter registration fraud, but excludes campaign finance violations and election administration mistakes. This draft will be discussed and probably refined by the project working group, which is scheduled to convene on May 18, 2006.

LITERATURE REVIEW

The consultants found many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. They found little research that is truly systematic or scientific. The most systematic look at fraud appears to be the report written by Lori Minnite, entitled "Securing the Vote: An Analysis of Election Fraud". The most systematic look at voter intimidation appears to be the report by Laughlin McDonald, entitled "The New Poll Tax". The consultants found that books written about this subject all seem to have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Moreover, the consultants found that reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book, "Stealing Elections".

Consultants found that researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate; but some reports say it is a major problem, albeit hard to identify.

- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

Recommendations

The consultants recommend that subsequent EAC research include a follow up study of allegations made in reports, books and newspaper articles. They also suggest that the research should focus on filling the gap between the lack of reports based on methodical studies by social or political scientists and the numerous, but less scientific, reports published by advocacy groups.

INTERVIEWS

The consultants jointly selected experts from the public and private sector for interviews. The consultants' analysis of their discussions with these members of the legal, election official, advocacy, and academic communities follows.

Common Themes

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud,

although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.

- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate that, for various reasons, DOJ is bringing fewer voter intimidation and suppression cases now, and has increased its focus on matters such as noncitizen voting, double voting, and felon voting. Interviews with DOJ personnel indicate that the Voting Section, Civil Rights Division, focuses on systemic patterns of malfeasance in this area. While the Election Crimes Branch, Public Integrity Section, continues to maintain an aggressive pursuit of systematic schemes to corrupt the electoral process (including voter suppression), it also has increased prosecutions of individual instances of felon, alien, and double voting.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

Common Recommendations:

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed.
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.

- o With respect to DOJ's Voting Section, Civil Rights Division, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one's definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and his office has not pursued any such cases.
- o Craig Donsanto of DOJ's Election Crimes Branch, Public Integrity Section, says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases DOJ is investigating and the number of indictments his office is pursuing are both up dramatically. Since 2002, in addition to pursuing systematic election corruption schemes, DOJ has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so that his agency can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment.
- Several people advocate passage of Senator Barak Obama's "deceptive practices" bill.
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected as non partisan officials, they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas are a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.